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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In my own case, I come to the halls of Congress as a small business person, someone who has in fact hired people, someone who has had to run a business, and someone who offered a health plan to my employees. I can tell my colleagues, as I have said year after year, debate after debate on this particular subject that if the underlying bill were
to pass as is and to become law, immediately I, as an employer, would eliminate the health benefits for my employees. Why? Because I would be subject to more increased litigation.

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

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

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

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

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

That is the nature of our institution.

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

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

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

All of us have heard from constituents who are fed up at being told by their health plans that they can’t have access to the health care they need even through they pay their insurance premiums for this care in the first place! So you would think all of us could agree that it’s time to do something.

Instead, my Republican colleagues want to pass a bill that does nothing. In fact, they thought President Bush would roll back important patient protections already in place in my home state of California.

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

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

It’s just that simple.

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

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

Well that’s not right.

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

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

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

Yesterday, with the Energy Bill, oil companies won.

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

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

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

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

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

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

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

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

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

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

How many more examples of special interest control must this esteemed body suffer through before doing something to change it? I’m sure of one thing—we need campaign finance reform to get the special interests out of Congress.

Oppose the Norwood amendment.

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

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

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

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

There are three “poison pill amendments.”

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

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

To these representatives I say, individuals have the right to have their case reviewed by an external review board. This makes sense. However, the alternative plan makes it almost impossible for a patient to prove his or her case in court. A patient must demonstrate the decision of the external review entity was completely unreasonable. It would not matter if the external reviewers were not familiar with the latest medical evidence, or if the reviewers did not consider the facts of the patient’s case. This review process is a medical one. It is vital that a patient have access to these reviews, but it does not provide the due process protections that a court does. Patients should have access to the courts. To do otherwise is just
Mr. UDALL of New Mexico. Mr. Chairman. The overwhelming majority of Americans view patients’ rights legislation as a priority and strongly support meaningful patient protection legislation. This issue has been debated for many years now and the time for Congress to act is long overdue.

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

This legislation ensures that physicians, not HMO bureaucrats, are making the medical decisions that affect patient’s lives. This legislation provides for strong and effective internal and independent external review of claim denials. This legislation allows patients to hold their insurance companies and HMO’s accountable for harm as a result of bureaucratic negligence, malfeasance, or incompetence. This legislation, Mr. Chairman, has my strong support for all of these reasons that I just mentioned.

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

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

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

Mr. PAUL. Mr. Chairman, I appreciate the opportunity to explain why I oppose all versions of the Patients’ Bill of Rights. Once again Congress is staging a phony debate on which form of statism to embrace, instead of asking the fundamental question over which form of statism to embrace. But, nevertheless, I am acting in the role as legislator and politician.

The M.D. degree grants no wisdom as to the correct solution to our managed-care mess. The most efficient manner to deliver medical services, in the same way one consumer gets the best deal at the best price possible by putting pressure on the providers. This principle applies equally to health care as it
does to other goods and services. However, over the past fifty years, Congress has system-
tically destroyed the market in health care. HMOs themselves are the result of cons-
cious government policy aimed at correcting distortions in the health care market caused by by removing control over the health care dollar from consumers and thus eliminating any inc-
centive for consumers to pay attention to prices when selecting health care. Because the consumer had the incentive to monitor health care prices stripped away and because politicians were unwilling to either give up power by giving individuals control over their health care or take responsibility for rationing care, the government control costs had to be created. Thus, the Nixon Administration, work-
ing with advocates of nationalized medicine, crafted legislation providing federal subsidies to HMOs and preempting state laws forbidding physicians to sign contracts to deny care to their patients. This legislation also mandated that health plans offer an HMO option in ad-
tion to traditional fee-for-service coverage. Federal subsidies, preemption of state law, and mandates on private business hardly sound like the workings of the free market. In-
stead, we have resulted in the market working out differences through voluntary con-
tracts and have brought us this managed-care monster. The Nixon-era corporatist, big government mindset that produced wage-and-price controls.

I am sure many of my colleagues will think it ironic that many of the supporters of Nixon’s plan to foist HMOs on the American public are today among the biggest supporters of the “patients’ rights” legislation. However, this is not really surprising because both the legisla-
tion creating HMOs and the Patients’ Bill of Rights reflect the belief that individuals are in-
capable of providing for their own health care needs and therefore government must control health care. The only real difference between our system of medicine and the Canadian system is that in America, Con-
gress contracted out the job of rationing health care resources to the HMOs. No one can take a back seat to me regarding the disdain I hold for the HMO’s role in managed care. This entire unnecessary level of corporatism that rakes off profits and under-
mines care is a creature of government inter-
ference in health care. These non-market insti-
tutions have resulted in the creation of HMOs by removing control over medical care through a collusion of organized medicine, politicians, and the HMO profiteers in an effort to provide universal health care. No one suggests that we should have universal food, housing, TV, computer and automobile programs; and yet, many of the poor to much better getting these services through the marketplace as prices are driven down through competition.

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

Mr. Chairman, the legislation before us is flawed from the very beginning. We premise that individuals have a federally-enforceable “right” to health care. Mixing the concept of rights with the delivery of services is dangerous. The whole notion of patient’s “rights” can be enhanced by more edicts by the federal government is preposterous.

Disregard for constitutional limitations on government, ignorance of the basic principles of economics combined with the power of spe-
cial interests influencing government policy has brought us this managed-care monster. If we pursue a course of more government man-
agement in an effort to balance things, we are destined to make the system much worse. If government mismanagement in an area that the government should not be managing at all is the problem, another level of bureaucracy, no matter how well intended, will not be help-
ful. The government is actually used to regulate. It is not able to prevail and the principle of government control over providing a service will be further en-
trenched in the Nation’s psyche. The choice in actually is government-provided medical care and its inevitable mismanagement or medical care providers.

Many members of Congress have con-
vinced themselves that they can support a “watered-down” Patients’ Bill of Rights which will allow them to appease the supporters of nationalized medicine without creating the problems associated with the unmodified Patients’ Bill of Rights, while even some sup-
porters of the most extreme versions of this legislation say they will oppose any further steps to increase the power of government over health care. These well-intentioned mem-
bbers ignore the economic fact that partial gov-
ernment involvement is not possible. It inevi-
tably leads to total government control. A vote for any version of a Patients’ Bill of Rights is a 100 percent endorsement of the principle of government management of the health care system.

Those who doubt they are endorsing gov-
ernment control of medicine by voting for a modified Patients’ Bill of Rights should con-
sider that even after this legislation is “wa-
tered-down” it will still give the federal govern-
ment the power to control the procedures for resolving disputes for every health plan in the country, as well as mandating a laundry list of services that health plans must offer to their patients. The new and improved Patients’ Bill of Rights will still drive up the costs of health care, lower the quality of care and lead to yet more cries for government control of health care to address the un-
intended consequences of this legislation.

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

In addition to the Medicare regulations, doc-
tors must contend with FDA regulations (which determine the arrival and use of new drugs), insurance company paperwork, and the increasing criminalization of medicine through legislation such as the Health Insur-
ance Portability Act (HIPPA) and the medical regulations which encourage conversations between doctors and nurses.

Instead of this phony argument between those who believe their form of nationalized medicine is best for patients and those whose only objection to nationalized medicine is its effect on entrenched corporate interests, we ought to consider getting rid of the laws that created this medical management crisis. The ERISA law requiring businesses to provide particular programs for their employees should be repealed. The tax code should give an equal tax treatment to everyone whether working for a large corporation, small business, or self employed. Standards should be set by insur-
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tracts. For years it was the ine-
There is nothing wrong with charity hospitals and possibly the churches once again providing care for the needy rather than through government paid programs which only maximize costs. States can continue to introduce competition by allowing various trained individuals to compete for business that our payors’ insurance plans only provided by licensed MDs. We don’t have to continue down the path of socialized medical care, especially in America where free markets have provided so much for so many.

In conclusion, Mr. Chairman, I urge my colleagues to join me in supporting the passage of the Norwood amendment on Patients’ Rights which balances the need for affordable health insurance with the need for real patient protections.

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

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

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

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

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

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

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

Mr. CUNNINGHAM. Mr. Chairman, I rise today in support of an amendment to expand Medical Savings Accounts, and allow for the creation of Association Health Plans.

Mr. ETHERIDGE. Mr. Chairman, I rise today in support of H.R. 2563, and ask that they join me in opposing the Norwood amendment and other poison pills that will kill a bill that America’s patients desperately need.

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

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

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

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

Unfortunately, an unfair process to debate a meaningful patient protection bill has been set up by the Leadership of the House of Representatives today and this action effectively kills any chance of enacting a real patient protection bill. The bill being debated today contains numerous loopholes and fails to enact proper patient protections and rights. It fails to hold health plans accountable by the same standards that are applied to physicians for negligent decisions. All actions against health plans would be determined exclusively under a new federal law with no ability to apply state law. For instance, any insured individual who needs to court to seek remedy, certain provisions in the legislation will tip the scales of justice in favor of the health plan. This bill also contains...
As a result of physical therapy, Mr. Leone regained much of his strength and quality of life. But his HMO cut his physical therapy sessions as soon as he started to feel better. They said it was no longer necessary. They said it was too expensive. As a result of losing his physical therapy, Mr. Leone’s health began fading. Soon he could no longer walk without assistance.

Despite pleas form his wife, his HMO refused to restore Mr. Leon’s physical therapy. His HMO said “it cost too much.” So his wife Josephine then suggested he join a health club. And that his wife Victoria should become his physical therapist! But Victoria is legally disabled!

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

I call him an HMO casualty.

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

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

If an appeal had not been in effect, Mr. Leone and his wife could have appealed both of these denials of care.

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

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

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

The Norwood amendment creates several roadblocks that would prevent patients form receiving benefits that already exist. Additionally, the Norwood amendment supercedes state laws and forces state courts to apply federal tort law.

In fact, this amendment creates a federal cause of action for negligence where none existed before. And I am particularly interested in safeguarding strong state laws that protect patients because my state of New Jersey just recently instituted a strong patients’ bill of rights that would be preempted by the Norwood amendment!

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

How can I go home and tell my constituents that the “strong patients’ bill of rights recently made into law in New Jersey will never have the opportunity to benefit our residents?” And that is not the only problem presented in this amendment.

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

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

If the Norwood amendment had been law when Mrs. Leone was taking care of her hus-

band, these additional obstacles would have made this heartbreaking experience even more painful. She would have had no access to her own state’s laws, no fair due process, and a limited amount of damages to seek.

I shake my head whenever I think of how we could have saved Mr. Leone if we had only passed the Ganske bill 5 years ago. Let’s not let any more Americans die at the hands of corporations whose sole concern is the bottom line not the patients’ health. Let's urge all of you in joining me to vote in favor of H.R. 2563 and against the Norwood amendment. Do it for Mr. Leone and all for the future patients who we could save with this important vote.

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

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

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

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

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

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

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

MR. EVANS. Mr. Chairman, today we have the opportunity to pass a strong, enforceable Patients’ Bill of Rights. A bill that would return medical decisions to patients and their doctors. A bill that would strip HMOs of their unprecedented protections which allow them to make decisions about patients care while being held accountable to no one. A bill that puts quality health care above the bottom line of insurance companies.
I hope that we will pass these new patients’ rights protections today. But these rights are meaningless without the ability to enforce them. The Ganske-Dingell Patients’ Bill of Rights is the only measure that protest these rights.

We have before us three amendments. We support the underlying bill because we must have a federal standard. Why? Look at the numbers: 15 states limit the number of times a woman see her OB/GYN; another 12 prohibit or restrict a woman’s direct access to follow-up care, even if this care is covered by her health plan; and a full 38 prohibit or restrict an OB/GYN’s ability to refer a woman for necessary OB/GYN-related specialty care. Obstetric and gynecological care is integral to women’s health. As things stand now, women in some states receive better care than others. It’s time we made direct access to OB/GYNs a fundamental patient protection enjoyed by all women enrolled in managed care plans.

The Bipartisan Patient Protection Act protects patients in the following ways:

1. It will make it easier for patients to appeal decisions; in the end, but we should have the right to seek limited compensation in federal courts. Employers need not fear this bill. They will be protected from liability in either federal or state courts, unless they directly participate in a decision that causes irreparable harm or death. Indeed, employers can fairly and comfortably pursue medical judgments will be subject to applicable state laws; if the case involves an administra-

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mendous positive impact on my constituents. And it could have helped ensure that people across the country, such as my constituents, had better access to prescription drugs, emergency care and medical specialists. But we have fallen short today.

I certainly hope that at conference we can make improvements to this bill that will put pa-

tients before the insurance companies. If we succeed in addressing the unfairness in this bill, we can then take the next step to address the needs of countless numbers of low-income workers who have no health coverage whatso-

ever. It will make a real difference in the quality of lives of millions of Americans. And that is what the work we do here is all about.

I urge my colleagues to vote against the three poison pill amendments and for a clean Dingell-Norwood-Berry Patients’ Bill of Rights.

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

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

Simply speaking, the current system is stacked against patients, placing important de-

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porate bureaucrats. Today, we had the oppor-

tunity to give back the power to patients and their doctors.

Instead, the Republican-controlled House chose to adopt changes that have put patient protections in jeopardy. By stacking the deck against patients, the Ganske-Waxman reform bill could have been the most important first step to bring much-needed reform to our current health care system.

Mr. Chairman, I represent a district that is 87% Hispanic. Recent studies tell us that two-

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ever. It will make a real difference in the quality of lives of millions of Americans. And that is what the work we do here is all about.
To truly reform health care in our nation for all Americans, we must continue to work to extend coverage to the working poor, and to ensure that those who are eligible for existing health care benefits receive them.

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

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

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

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

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

Second, as a result, those small businesses facing higher premiums would drop coverage. The CBO estimates that 10,000 employees facing higher premiums would drop coverage. It provides quality care to their patients. This amendment is a ruse. Behind all the promises, there is absolutely no guarantee that patient protections will be enforced. HMOs will be left in charge, free to continue to override doctors’ decisions and deny care or limit care or restrict access to specialists. This amendment means that there is absolutely no guarantee that patient protections will be enforced. HMOs will be left in charge, free to continue to override doctors’ decisions and deny care or limit care or restrict access to specialists. This amendment provides special treatment for HMOs. It gives HMOs unique legal protections—protections denied every other industry in this country—so that they can continue to operate with impunity.

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

Mr. HONDA. Mr. Chairman, I rise today in strong opposition to H.R. 2563, the so-called Bipartisan Patient Protection Act, as amended. Patient protection is common sense legislation that America needs and deserves. The original bill, as proposed, provided much-needed security for the 180 million Americans who receive their health coverage through managed care. It gave healthcare consumers the same protections offered in other industries. It provided accountability, minimum standards of care, and broader access to health-care coverage for our nation’s citizens.

Recently, a constituent of mine, Andrew B. Steffan of Campbell, California has had an outrageous experience, showing exactly why this important legislation is needed. This past April, Mr. Steffan experienced difficulty breathing and chest discomfort and was transported by ambulance to Good Samaritan Hospital in San Jose. In the ambulance he was monitored by EKG and was administered oxygen to help him breathe, and nitrroglycerin for his chest pain. He was later diagnosed with coronary heart disease and congestive heart failure.

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

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

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

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

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

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

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

The amendment overturns the good work done by states in protecting patients. Furthermore, certain cases can be removed to the federal courts, where it is much more difficult for patients to achieve justice.

Yes, America’s citizens need healthcare protection. But a sham, ineffective bill is not the answer. What good are patient protections if those rights cannot be effectively enforced in court? I urge my colleagues to follow the lead of the other body and pass forceful, effective, meaningful legislation.

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

The Bipartisan Patient Protection Act, H.R. 2563, as originally brought to the Floor today by Representative JOHN DINGELL and Representative GREG GANSKE was a model of bipartisan fairness and fairness which brought equality to the patient and HMO relationship by providing for an internal and external review process of denials of care and permitting patients to sue their HMOs in state and federal courts. To ensure that the pendulum did not swing too far to one side, the bill also capped punitive damages at $250,000. Furthermore, to protect employers from frivolous suits, the bill only held employers liable if they administered their plan themselves. Clearly, the
bill as it was originally intended provided patients the means they needed to protect their right to quality care.

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

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

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

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

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

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

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

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

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

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

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

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

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

Unfortunately, we have come to a crossroads. On one hand, the President, the Congress and I believe that the Norwood amendment, the President has pledged, for his reasons, to veto the Ganske-Dingell bill in its present form, the Minority has begun to politicize this issue to the detriment of real reform, and we are now forced to make a decision between establishing a new federal system for patients dissatisfied with their HMOs and allowing them the opportunity to allow myself, Dr. GANSEK, Dr. NORWOOD, Mr. DINGELL, Mr. BERRY and other Members of Congress to pressure the Senate and the White House to pressure the Senate and the White House to pressure the Senate and the White House to pressure the Senate and the White House to pass a bipartisan proposal that was crafted in the wee hours of the night because it favors HMOs over patients.

I call on my colleagues, the Senate, and the President to come together and strike a deal that is acceptable to the President and unacceptable to patients and doctors. They have hijacked a good bill and filled it with protections for special interests. I hope that the House-Senate conference committee will come up with a bill that reflects the McCain bill that was approved in the Senate earlier this year.

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

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

H.R. 2563 did address the importance of allowing patients to appeal their health plans’ decision as well as holding HMOs accountable for their actions. This bill would have established an independent, speedy external review process for patients dissatisfied with the results of the internal review. H.R. 2563 would
have allowed individuals the right to sue when a medical judgment resulted in injury or death. The Republicans offered three amendments of which two passed to the Patient Protection Act that severely weakened major provisions. The first amendment fully expands medical savings accounts (MSA) which only benefit wealthier people. This provision will directly increase health care costs for those who remain in traditional insurance and managed care plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

That is why I joined a bipartisan coalition, to co-sponsor H.R. 2563, the Patient Protection Act, a strong, enforceable patients’ bill of rights, the only real patients’ bill of rights. I will fight against efforts to weaken this bill with amendments negotiated in the dead of night. President Bush claims he is committed to working on a bipartisan basis for the good of our people. Here is his chance! This is not a partisan issue, it is about protecting patients’ rights to quality health care. It is really about the health of our country! “Read my lips” were his Dad’s famous words. I urge the President to keep his word, prove your commitment to bipartisanship! Commit to America’s health Mr. President, not to the health of HMOs, not to the health of your friends in big business!

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

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

The CHAIRMAN. All time for general debate has expired.

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

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

H.R. 2563

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

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

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

Sec. 101. Utilization review activities.

Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.

Sec. 103. Internal appeals of claims denials.

Sec. 104. Internal and external appeals procedures.

Sec. 105. Health care consumer assistance programs.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.

Sec. 112. Choice of health care professional.

Sec. 113. Access to emergency care.

Sec. 114. Timely access to specialists.

Sec. 115. Patient access to obstetrical and gynecological care.

Sec. 116. Access to pediatric care.

Sec. 117. Continuity of care.

Sec. 118. Access to needed prescription drugs.

Sec. 119. Coverage for individuals participating in approved clinical trials.

Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.

Sec. 132. Prohibition of discrimination against providers based on licensure.

Sec. 133. Prohibition against improper incentive arrangements.

Sec. 134. Payment of claims.

Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.

Sec. 152. Presumption: State flexibility; construction.

Sec. 153. Exclusions.

Sec. 154. Treatment of excepted benefits.

Sec. 155. Regulations.

Sec. 156. Incorporation into plan or coverage.

Sec. 157. Preservation of protections.

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

Sec. 201. Application to group health plans and group health insurance coverage.

Sec. 202. Application to individual health insurance coverage.

Sec. 203. Cooperation between Federal and State authorities.

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

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

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


Sec. 402. Availability of civil remedies.

Sec. 403. Limitation on certain class action litigation.

Sec. 404. Limitations on actions.

Sec. 405. Cooperation between Federal and State authorities.

Sec. 406. Sense of the Senate concerning the importance of certain unpaid services.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986


Sec. 501. Application of requirements to group health plans under the Internal Revenue Code of 1986.

Sec. 502. Conforming enforcement for women’s health and cancer rights.

Subtitle B—Health Care Coverage Access Tax Incentives

Sec. 511. Expanded availability of Archer MSAs.
Sec. 512. Deduction for 100 percent of health insurance costs of self-employed individuals.

Sec. 513. Credit for health insurance expenses of small businesses.

Sec. 514. Certain grants by private foundations to qualified health benefit purchasing coalitions.

Sec. 515. State plan program for market innovation.

TITLE VI—EFFECTIVE DATES: COORDINATION IN IMPLEMENTATION

Sec. 601. Effective dates.

Sec. 602. Coordination in implementation.

Sec. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. No impact on Social Security Trust Fund.

Sec. 702. Customs user fees.

Sec. 703. Fiscal year 2002 medicare payments.

Sec. 704. Senate bill with respect to participation in clinical trials and access to specialty care.

Sec. 705. Sense of the Senate regarding fair review process.

Sec. 706. Annual review.

Sec. 707. Definition of born-alive infant.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

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

(2) USE OF WRITTEN CRITERIA. —

(A) IN GENERAL.—Such a program shall include written policies and procedures that govern utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW —

Nothing in subparagraph (A) shall prevent the plan or issuer from relying on standards, other than standards developed with input from a range of appropriate professionals who are providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

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

(c) Use of Peer Review Organizations.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF CRITERIA.—A utilization review program shall be conducted consistent with written policies and procedures that govern the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and include provisions for concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) Written Policies and Criteria.

(1) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate practitioner and consumer groups.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER.—Such a program shall provide the plan or issuer with access to information requested by the plan or issuer as soon as possible, based on the available information, and failure to comply with the applicable timeline under subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under subparagraph (B).

(2) LIMITS ON FREQUENCY.—A program shall not provide for the performance of utilization review activities with respect to a specific class of services or procedures used for the utilization review program more frequently than is reasonably expected to assess whether the services under review are medically necessary and appropriate.

(c) Accessibility of Review.—Such a program shall provide for written notification of the results of any review under the program or of access to the results of any review under the program.

(d) Time Limits.—

(1) In General.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior determination that a claim for benefits is covered by a plan, and a health insurance issuer offering health insurance coverage, shall make a determination as to whether and when a written confirmation of such request is made.

(2) Timely Provision of Necessary Information.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making of such a request, regardless of whether and when a written confirmation of such request is made.

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

(a) Procedures of Initial Claims for Benefits.—

(1) In General.—A group health plan, and a health insurance issuer offering health insurance coverage, shall:

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) within a reasonable time after receipt of a claim for benefits.

(B) notify a participant, beneficiary, or enrollee (or authorized representative) of the determination in a timely manner.

(2) Timely Provision of Necessary Information.—To the extent necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in subparagraph (A) only if the participant, beneficiary, or enrollee (or authorized representative) provides specific information reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(2) Access to Information.—

(A) Timely Provision of Necessary Information.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) may make a determination as to whether and when a written confirmation of such request is made.

(B) Limited Effect of Failure on Plan or Issuer's Obligations.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a determination in accordance with the medical exigencies of the case as soon as possible, based on the available information, and failure to comply with the applicable timeline under subparagraph (B).

(C) Access to Claim Information.—

(1) IN GENERAL.—All health care providers who are providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual shall provide the participant, beneficiary, or enrollee (or authorized representative) with access to information previously provided by the plan or issuer as soon as possible, but in no case later than 28 days after the date of the claim for benefits is received.

(2) Access to Information.—

(A) Timely Provision of Necessary Information.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) may make a determination as to whether and when a written confirmation of such request is made.

(B) Limited Effect of Failure on Plan or Issuer's Obligations.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a determination in accordance with the medical exigencies of the case as soon as possible, based on the available information, and failure to comply with the applicable timeline under subparagraph (B).
72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(1) CONCURRENT REVIEW.—

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

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

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 28 days after the date of receipt of the claim for benefits. Such access shall be provided not later than the 72-hour or applicable period referred to in such subparagraph.

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

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

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

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 104.

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

(1) AUTHORIZED REPRESENTATIVE.—The term “authorized representative” means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual’s consent, in good faith, who is medically unable to provide such consent.

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

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

(4) TREATING HEALTH CARE PROFESSIONAL.—The term “treating health care professional” means, with respect to an individual, a health care professional who is primarily responsible for delivering such services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

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

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee knew of the denial of the claim for benefits under section 102 within the applicable timeline established for such a determination.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date of which the participant, beneficiary, or enrollee knew of the denial if the denial of the claim for benefits was made to the participant, beneficiary, or enrollee by the plan or issuer under this subparagraph.

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

(d) PLAN WAIVER OF INTERNAL REVIEW.—

(1) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section if a participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to comply with the requirements of subparagraph (A)

(2) TIMELINES FOR MAKING DETERMINATIONS.—

(a) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request. If the request is made in printed form by the plan or issuer, the date of the oral request for an appeal shall be the date such written confirmation is received by the plan or issuer. If the request is made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably needed to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

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

(C) ONGOING CARE DETERMINATIONS.—

(1) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 103(b)(3), for which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal and in no case later than 14 days from the date on which the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.
under section 104 to be completed before the termination or reduction takes effect.

(ii) Rule of Construction.—Clause (i) shall not be construed as requiring plans or issuers to take actions which would exceed the coverage limitations for such care.

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

(c) Conduct of Review.—

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

(2) Peer Review of Medical Decisions by Health Care Professionals.—A review of an appeal of a denial of a claim for benefits that is based on (i) lack of medical necessity and appropriateness, or (ii) based on experimental, investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician  

(allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by a professional of the same or similar specialty, with appropriate expertise (including, in the case of appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) Notice of Determination.—

(1) in General.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (and authorized representative) and the treating health care professional (if any) in accordance with section 103(a)(4), condition access to an independent external review under section 103(c) or notice of waiver of internal review under section 103(a)(4) or (iv) except as provided in subparagraph (B)(ii), require a request for review be in writing;

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

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

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

(B) Requirements and Exception Relating to General Rule.

(i) Oral Requests Permitted in Expedited or Concurrent Cases.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer.

(ii) Exception to Filing Fee Requirement.—

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

(B) Process for Making Determinations.—

(c) Referral to Qualified External Review Entity Upon Request.—

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

(2) Access to Plan or Issuer and Health Professional Information.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (and authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and required by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subsection (b)(iii) of this section, by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(d) Screening of Requests by Qualified External Review Entities.—

(i) in General.—With respect to a request referred to a qualified external review entity under paragraph (1), the entity shall determine whether a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that

(A) the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(ii) Fee Not Required.—Payment of a filing fee shall not be required under subparagraph (B)(ii) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(iii) Refunding of Fee.—The filing fee paid under subsection (b)(3)(A)(v) shall not be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

4. Collection of Filing Fee—The failure to pay such a filing fee shall not prevent the consideration of a request for review, but, subject to the preceding provisions of this section, shall constitute a legal liability to pay.

(c) Referral to Qualified External Review Entity Upon Request.—

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

(2) Access to Plan or Issuer and Health Professional Information.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (and authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and required by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subsection (b)(iii) of this section, by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) Screening of Requests by Qualified External Review Entities.—

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

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

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

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

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

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

(B) Process for Making Determinations.—

(i) in General.—With respect to a request referred to a qualified external review entity under paragraph (1), the entity shall determine whether a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that

(A) the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(ii) Fee Not Required.—Payment of a filing fee shall not be required under subparagraph (B)(ii) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(iii) Refunding of Fee.—The filing fee paid under subsection (b)(3)(A)(v) shall not be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

4. Collection of Filing Fee—The failure to pay such a filing fee shall not prevent the consideration of a request for review, but, subject to the preceding provisions of this section, shall constitute a legal liability to pay.

(c) Referral to Qualified External Review Entity Upon Request.—

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

(2) Access to Plan or Issuer and Health Professional Information.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (and authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and required by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subsection (b)(iii) of this section, by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) Screening of Requests by Qualified External Review Entities.—

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

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

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

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

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

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

(B) Process for Making Determinations.—

(i) in General.—With respect to a request referred to a qualified external review entity under paragraph (1), the entity shall determine whether a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that

(A) the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(ii) Fee Not Required.—Payment of a filing fee shall not be required under subparagraph (B)(ii) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(iii) Refunding of Fee.—The filing fee paid under subsection (b)(3)(A)(v) shall not be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

4. Collection of Filing Fee—The failure to pay such a filing fee shall not prevent the consideration of a request for review, but, subject to the preceding provisions of this section, shall constitute a legal liability to pay.
(i) No Deference to Prior Determinations.—In making determinations under subsection (A), there shall be no deference given to determinations made by the provider of coverage based on the conclusion that denial is warranted

(ii) Use of Appropriate Personnel.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) Notices and General Timeframes for Determinations.—

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

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

(ii) shall include the reasons for the determination;

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

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

(ii) Use of Appropriate Personnel.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section. Upon receipt of information under paragraph (A), the qualified external review entity, and if required the independent medical reviewer (or determination made under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(E) Evidence and Information to Be Used in Medical Reviews.—In making a determination under this subsection, the independent medical reviewer shall consider the claim under review without deference to the determinations made by the plan or issuer of coverage and that is described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

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

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

(G) Nonbinding Nature of Additional Recommendations.—In addition to the determinations made under this subsection, the independent medical reviewer (or reviewers) may provide the plan or issuer and the treating health care professional with additional recommendations in connection with the denial of a claim for benefits. Such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(1) Timelines for Independent Medical Review.—

(A) Prior Authorization Determination.—

(i) In General.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of the request for external review is received.

(ii) Expedited Determination.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee (or authorized representative), or that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee (or authorized representative) filing the request; and

(B) Retrospective Determination.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(2) Notification of Determination.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if
any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing the entity or reviewer from providing an initial oral notice of the reviewer’s determination.

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

(1) APPLICATION OF DETERMINATIONS.—

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

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

(2) FAILURE TO COMPLY.—

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

(B) REIMBURSEMENT.—

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

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional involved, the participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of such reimbursem (notwithstanding the plan or issuer’s obligation under paragraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the provider involved, the participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of such reimbursement as described in subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services provided in a manner consistent with the determination of the independent medical reviewer.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing a benefit determined by a qualified external review entity shall ensure that—

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

(i) no member of the plan or issuer involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is—

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

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

(ii) each independent medical reviewer in a case shall—

(A) be a related party (as defined in paragraph (7));

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

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

(iii) no member of the plan or issuer involved in the provision of items or services in the case under review;

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

(4) the affiliated individual is not employed by the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

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

(6) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (5).

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

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

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

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall in-
professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ‘practicing means (a) being related to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 51 percent of the time.

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

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

(A) not exceed a reasonable level; and

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

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

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

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

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

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

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

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

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

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

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

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

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

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

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1) of this subsection, the appropriate Secretary shall enter into a contract with a qualified external review entity for the conduct of external review activities under subsection (d).

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

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

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

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

(ii) PROCESS.—The appropriate Secretary shall give deference to plans and issuers that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

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

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

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

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

(IV) Compliance with applicable independence requirements.

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

(vi) REVOCATION.—A certification or recertification provided under this paragraph shall be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or contractor, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has...
malice or gross misconduct in the performance of such duty, function, or activity. (5) REPORT.—Not later than 12 months after the general effective date referred to in section 3(b)(1), the Secretary shall prepare and submit to the appropriate committees of Congress a report containing—
(A) the information that is provided under paragraph (3)(D);
(B) the number of denials that have been upheld by independent medical reviewers and persons providing care that have been reversed by such reviewers; and
(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE PROGRAMS.

(a) GRANTS.—

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

(b) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activity directly or by contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(2) ELIGIBILITY OF ENTITY.—To be eligible to receive an award under this subparagraph, a grantee shall—
(A) demonstrate to the Secretary that it has the technical, organizational, and professional capacity to deliver the services described in subsection (a), and
(B) have a list of providers of health insurance products, private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(c) AMOUNT OF GRANT.—A State shall be entitled to receive an amount under this section equal to—

(A) an amount equal to 0.25 percent of the average offered by a health insurance issuer for the State under this section.

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

(A) IN GENERAL.—From amounts provided under this grant, a State shall establish or continuously maintain a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to receive an award under this subparagraph, a grantee shall—
(A) demonstrate to the Secretary that it has the technical, organizational, and professional capacity to deliver the services described in subsection (a), and
(B) have a list of providers of health insurance products, private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(3) AMOUNT OF GRANT.—A State shall be entitled to receive an amount under this section equal to—

(A) an amount equal to 0.25 percent of the average offered by a health insurance issuer for the State under this section.

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

(A) IN GENERAL.—From amounts provided under this grant, a State shall establish or continuously maintain a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to receive an award under this subparagraph, a grantee shall—
(A) demonstrate to the Secretary that it has the technical, organizational, and professional capacity to deliver the services described in subsection (a), and
(B) have a list of providers of health insurance products, private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(5) AMOUNT OF GRANT.—A State shall be entitled to receive an amount under this section equal to—

(A) an amount equal to 0.25 percent of the average offered by a health insurance issuer for the State under this section.

(6) ELIGIBILITY OF ENTITY.—To be eligible to receive an award under this subparagraph, a grantee shall—
(A) demonstrate to the Secretary that it has the technical, organizational, and professional capacity to deliver the services described in subsection (a), and
(B) have a list of providers of health insurance products, private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(7) AMOUNT OF GRANT.—A State shall be entitled to receive an amount under this section equal to—

(A) an amount equal to 0.25 percent of the average offered by a health insurance issuer for the State under this section.

(8) ELIGIBILITY OF ENTITY.—To be eligible to receive an award under this subparagraph, a grantee shall—
(A) demonstrate to the Secretary that it has the technical, organizational, and professional capacity to deliver the services described in subsection (a), and
(B) have a list of providers of health insurance products, private health insurance participants, beneficiaries, enrollees, or prospective enrollees.
health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of information gathered by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance issuers, with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistently with applicable Federal and State confidentiality laws, use aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information (in accordance with Federal and State laws) to ensure the confidentiality of such information.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) In General.—If—

(1) a health insurance issuer providing health insurance coverage, offers or coordinates benefits or services under a group health plan, the issuer offers or enrolls the limitations on choice of participating health care professionals with respect to such care.

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

Section 108 доступ к медицинской помощи. — (a) Обеспечения экстренной помощи. — (1) В общей сложности. — Если в групповой план страхования предлагается страхование, предложение или включение услуг (включая обслуживание последствий) только если такие услуги предоставляются через здоровый профессионал и бенефициары, которые являются частью сети здоровых профессионалов и предложены лицом, уведомившим планирующего контракт с планом, чтобы предоставить такие услуги, то инсурог или план также должны обеспечить или уведомить об услугах, предоставляющихся на сетевом контракте, с другой группой плана или через другого страховщика, который предлагает широкую сетевую помощь.

(2) Дополнительные расходы.—Сумма дополнительных расходов обусловлена в части (c) определений страхования или медицинских услуг, которые предоставляются через здоровый профессионал и бенефициары, которые являются частью сети здоровых профессионалов и предложены лицом, уведомившим планирующего контракт с планом, чтобы предоставить такие услуги, то инсурог или план также должны обеспечить или уведомить об услугах, предоставляющихся на сетевом контракте, с другой группой плана или через другого страховщика, который предлагает широкую сетевую помощь.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the network described in section (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary.

(c) COVERAGE OF SERVICES.—If a group health plan, or any health insurance issuer, provides or covers emergency medical services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B)) without prior authorization; and

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

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(d) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the network described in section (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary.

Subsection B—Access to Care

SEC. 112. CHOICE OF HEALTH CARE PROVIDER.

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

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

(2) LIMITATION.—(Paragraph (1) shall not apply to specialty care if the plan or issuer determines that such specialty care is required to stabilize the patient.

(3) C ONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).
the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(2) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

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

(B) E MERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ‘emergency ambulance services’ means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition as defined in subsection (a)(2)(A) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(A) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to a specialist professional who specializes in obstetrics or gynecology as the authorized professional who specializes in obstetrics or gynecology on the basis of the plan or issuer’s judgment of the specialty care specialist as the appropriate health care professional to provide such care for participants, beneficiaries, and enrollees.

(B) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide high quality care in treating the condition, subject to the requirements of paragraph (1), by a participating primary care provider.

(b) SPECIALIST DEFINED.—For purposes of this section, the term ‘specialist professional who specializes in obstetrics or gynecology’ means a medical provider that the plan or issuer determines to have the capability, qualifications, and experience (including, in the case of a specialist professional who specializes in obstetrics or gynecology, as the obstetrician or gynecologist, the education, training, experience, and credentials of such provider) to provide high quality care in treating the condition as defined in subsection (a)(1).

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan or a health insurance issuer offering health insurance coverage with respect to such plan, a health care provider is permitted to designate a physician who specializes in pediatrics as the primary care health care provider for the child, and the plan or issuer shall pay such person to designate a physician who specializes in pediatrics as the primary care health care provider if such provider participates in the network of the plan or issuer.

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

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

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

(b) benefits or coverage provided by a health care provider are terminated because of a change in the terms and conditions of a current individual plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if the provider had been a contract provider at the time the plan and the provider had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(b) APPLICATION OF SECTION.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health service is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if such plan and such provider had been a contract provider at the time the plan and the provider had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

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

(A) notify the continuing care patient of such change in the terms and conditions of the individual plan and the health insurance issuer, and, if such change results in the loss of the primary care health care provider or the primary care health care provider’s participation in the network of the plan or issuer, provide the patient with an opportunity to continue to be covered with such plan or issuer; and

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

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

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

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

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

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

SEC. 118. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan or a health insurance issuer offering health insurance coverage with respect to such plan, a health care provider is permitted to designate a physician who specializes in pediatrics as the primary care health care provider if such provider participates in the network of the plan or issuer.

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

SEC. 119. ACCESS TO BIRTH AND DIVORCE SERVICES.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive treatment from a specialist professional who specializes in obstetrics or gynecology in treating a condition as defined in subsection (a)(1) by a participating specialist professional who specializes in obstetrics or gynecology on the basis of the plan or issuer’s judgment of the capability, qualifications, and experience of such provider.

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

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

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

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

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological care provider notify the primary care health care professional or the plan or issuer of treatment decisions.
respect to the course of treatment by such provider with the provider’s consent during a transitional period (as provided for under subsection (b)).

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

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

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

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

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

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

(b) TRANSITIONAL PERIODS.—

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

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

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

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

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

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

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for up to (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(c) DEFINITIONS.—In this section:

(1) IN GENERAL.—(A) any individual who is engaged in the delivery of health care services in a State and is so licensed or certified by the State; and

(B) any entity involved in a pre-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(3) USE OF IN-NETWORK PROVIDERS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider agreeing to the following terms and conditions:

(a) The treating health care provider agrees to accept reimbursement from the provider or issuer for the patient’s share of the cost, as described in paragraph (1), and the costs of providing such care or services that are paid by the provider or issuer, and to accept the obligations of a non-participating provider under section 515 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act, or

(b) The provider or issuer shall not deny coverage of such a drug or device to the extent that a prescription drug is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this section shall be construed to prevent a network of one or more participating providers from participating in a clinical trial involving the comparative effectiveness of prescription drugs or medical devices.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) In General.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits related to prescription drugs or medical devices, such coverage shall include the prescription drugs or medical devices listed in the formulary, and the plan or issuer shall—

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

(2) provide for disclosure of the formulary to participants, beneficiaries, and enrollees;

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

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

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

(A) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act; or

(B) is included in the labeling authorized by the application in effect for the drug under section 515 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(C) is included in the labeling authorized by an order under subsection (f) of section 515 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.
SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTION IN THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

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

(A) a mastectomy; 

(B) a lymph node dissection for the treatment of breast cancer; or

(C) a lumpectomy.

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

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

(c) SECONDARY CONSULTATIONS.—

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

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

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

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

(2) provide financial or other incentives to a participant, beneficiary, or enrollee for the payment of out-of-pocket expenses for which a participant, beneficiary, or enrollee shall be responsible under any option available under the plan.

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

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENTS.—

(1) DISCLOSURE.—

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

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

(ii) of such information on an annual basis—

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

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

(iii) of information relating to any material reduction to the benefits or information described in subsection (b) during the election period or any other period if the reduction takes effect.

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

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

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

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

(c) PATIENT ACCESS TO INFORMATION.—The informational materials to be distributed under this section shall include information that is not otherwise available under the group health plan or health insurance coverage the following:

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

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

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

(C) any specific exclusions or express limitations of benefits described in section 1031(c) of the Act; and

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

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

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

(A) any premiums, deductibles, coinsurance, or copayments, and any amount that would otherwise be covered by the plan or coverage involved under subsection (c).

(3) PROVIDER INFORMATION.—A description of the following:

(A) the name, address, telephone number, and other contact information for the plan or issuer; and

(B) the means by which participants, beneficiaries, and enrollees may obtain information regarding the costs of items and services provided by providers participating in the plan or coverage.

Nothing in this section shall preclude an issuer from providing information on network providers as a separate notice.
(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and
(D) any additional cost-sharing or charges for benefits that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.
(3) ENROLLMENT.—Information relating to the disenrollment of a participant, benefici- ary, or enrollee.
(4) SERVICE AREA.—A description of the plans and provider's service area, including the provision of any out-of-area coverage.
(5) PARTICIPATING PROVIDERS.—A directory of participants (a directory of participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.
(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or terminating a primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a primary care provider other than a participating provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.
(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.
(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether experimental or investigational service or treatment is considered experimen- tal or investigational, and the circumstances under which such treatments are covered by the plan or issuer.
(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining refer- rals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in plan or issuer agreements or contracts, and the right to access specialists care under section 114 if such section applies.
(10) FORMULARY.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage; and the process to obtain coverage for approved clinical trials under section 119 if such section applies.
(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for pre- scriptlon drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.
(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emer- gency services, including the right of a partici- pant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies; a statement of any educational infor- mation that the plan or issuer may provide regarding the appropriate use of emergency services.
(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures per- taining to claims and appeals, a description of the rights (including deadlines for exercis- ing rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing an adverse determination; and internally and externally (including telephone numbers and mailing addresses of the appropriate au- thority), and a description of any additional requirements applicable under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.
(14) ADVANCE DIRECTIVES AND ORGAN DONA- TION.—A description of procedures for advance directives and organ donation deci- sions if the plan or issuer maintains such procedures.
(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number of the plan sponsor, and the name, mailing address, and telephone number of the plan administrator (or any other party so designated by the plan sponsor), including decisions made under section 116 as the appropriate Secretary may determine.
(16) TRANSLATION SERVICES.—A summary description of any translation or interpreta- tion services (including the availability of printed information in languages other than English, and the availability of information in Braille) that are available to non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.
(17) ACCREDITATION INFORMATION.—Any in- formation that is made public by accrediting organizations or accrediting agencies, that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.
(18) NOTICE OF REQUIREMENTS.—A descrip- tion of any rights of participants, bene- ficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (16)) in sections 111 through 119.
(19) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—
(1) distributing any other additional information determined by the plan or issuer to be necessary or important in assisting par- ticipants, beneficiaries, and enrollees in the selection of a health plan or health insur- ance coverage; and
(2) complying with the provisions of this section by providing information in bro- chures, through the Internet or other elec- tronic media, or through other similar means, so long as—
(A) the disclosure of such information in such form is in accordance with require- ments as the appropriate Secretary may im- pose; and
(B) in connection with any such disclosure of information through the Internet or other electronic media—
(i) the recipient has affirmatively con- sented to the disclosure of such information in such form,
(ii) the recipient is capable of accessing the information so disclosed on the recipient’s individual workstation or at the recipient’s home,
(iii) the recipient retains an ongoing right to request paper disclosure of such informa- tion and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongo- ing right and of the proper software required to view information so disclosed,
(iv) the plan administrator appropriately ensures that the intended recipient is receiv- ing the information so disclosed and provides the information in printed form if the infor- mation is not received.
Subtitle D—Preparing the Doctor-Patient Relationship
SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.
(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of

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

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

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

(4) SERVICE AREA.—A description of the plans and provider’s service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participants (a directory of participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

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

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

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

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

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

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

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

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

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

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number of the plan sponsor, and the name, mailing address, and telephone number of the plan administrator (or any other party so designated by the plan sponsor), including decisions made under section 116 as the appropriate Secretary may determine.

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

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations or accrediting agencies, that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (16)) in sections 111 through 119.

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

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

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

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

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

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

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

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

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

Subtitle D—Preparing the Doctor-Patient Relationship
SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

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

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

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

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

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

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

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

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

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

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

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

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

SEC. 134. PAYMENT OF EXPENSES.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1851 of the Social Security Act (42 U.S.C. 1395u(c)(2)).
(b) Secretary.—Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury. The term “Secretary” means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2715 of the Public Health Service Act. The Secretary of Labor shall authorize the Secretary of Health and Human Services to carry out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(1) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term “applicable authority” means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term “enrollee” means, with respect to health insurance coverage, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term “group health plan” has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes an employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 601(1) of such Act.

(4) HEALTH CARE PROVIDER.—The term “health care provider” means an individual or licensed, accredited, or certified under State law to provide specified health care and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term “health care provider” includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term “network” means, with respect to a group health plan that is a non-Federal governmental plan, an arrangement under which the group health plan provides for such a network to arrange for the provision of health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term “nonparticipating means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term “participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is a participating health care provider with respect to such items and services.

(9) PRIOR AUTHORIZATION.—The term “prior authorization” means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term “terms and conditions” includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) CONTINUOUS APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement requires the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of health care services and to health care providers through whom the insurance issuer offering health insurance with respect to a group health plan or health insurance coverage offered by a health insurance issuer, an institutional or other facility or agency that provides health care services and who is operating within the scope of such licensure, accreditation, or certification, or a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is a participating health care provider with respect to such items and services, shall not be treated as preventing the application of any requirement of this title.

(2) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—(3) Certification by States.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with the requirements of this title. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—(A) IN GENERAL.—The Secretary shall provide an opportunity for public review of any certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirements and has a similar effect.

(B) APPROVAL DEADLINES.—(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is required to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 90 days after the date on which such specified additional information is received by the Secretary.

(C) STATE LAW.—(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination described in subparagraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State’s interpretation of the State law involved with respect to the patient protection involved.

(d) PUBLIC NOTIFICATION.—The Secretary shall—

(1) provide a State with a notice of the determination to approve or disapprove a certification submitted under this paragraph (1); and

(2) promptly publish in the Federal Register a notice of a disapproved certification under this paragraph (1).

(e) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(f) PETITIONS.—(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee is required to be permitted by the Secretary to make the determination described in paragraph (2)(A).

(2) PETITIONS.—(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee is required to be permitted by the Secretary to make the determination described in paragraph (2)(A).
(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 90-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term “State law” includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as State law rather than a law of the United States.

(2) STATE.—The term “State” includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of plan coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEER-FOR-SERVICE COVERAGE.—

(1) GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEER-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term “fee-for-service coverage” means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms or conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or coverage; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. INCLUSION OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in subsections (b), (c), and (d) of section 732 of such Act, in the manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title to plans under sections 2701 and 2703 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following definitions shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.


(3) Section 9813(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may by regulation make such rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be part of, and incorporated into, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTIONS.—(1) In general.—(A) shall not apply to an agreement providing for arbitration or participation in any other non-judicial procedure to resolve a dispute if the plan or issuer and the American Medical Association and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement.

(2) Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review processes).

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

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subtitle A of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

“SEC. 2707. PATIENT PROTECTION STANDARDS. "Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with such requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.”

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting “(other than section 2707)” after “requirements under such parts.”

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title I of the Public Health Service Act is amended by inserting after section 2752 the following new section:

“SEC. 2753. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.”

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title I of the Public Health Service Act (42 U.S.C. 300gg-91 et seq.) is amended by adding at the end the following:

“SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

“(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of any or all of the Secretary's authority under this title to enforce the requirements of this title and to administer any State Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

“(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.”

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

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—Notwithstanding the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under this Act and under applicable guidance as provided by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term “Federal health insurance program” means a Federal program that provides creditable coverage (as defined in section 402(c)(8) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

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

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO THE FEDERAL HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

“SEC. 714. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (as defined in section 733(c)(1) of the Public Health Service Act) and the Secretary shall comply with the requirements of this section (in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

“(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—
(1) Satisfication of certain requirements through insurance.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

(A) Section 111 (relating to consumer choice option).

(B) Section 112 (relating to choice of health care professional).

(C) Section 113 (relating to access to emergency care).

(D) Section 114 (relating to timely access to specialists).

(E) Section 115 (relating to patient access to obstetrical and gynecological care).

(F) Section 116 (relating to access to pediatric care).

(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(H) Section 118 (relating to access to needed prescription drugs).

(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

(J) Section 120 (relating to coverage for inpatient hospital stays for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for early secondary consultations).

(K) Section 134 (relating to payment of claims).

(2) Information.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer’s failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information to participants or beneficiaries.

(3) Internal appeals.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer’s failure to provide for such process and system), if the issuer is obligated to provide (or provides) for such process and system.

(4) External appeals.—Pursuant to rules of the Secretary, insofar as a group health plan entered into a contract with a qualified external appeal entity for the conduct of external appeals in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity’s failure to meet any requirements under such section.

(5) Application to prohibitions.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes a violation of that requirement (or of any of the following sections of the Bipartisan Patient Protection Act, the group health plan shall not be liable for such violation unless the plan caused such violation:

(A) Section 131 (relating to prohibition of interference with certain medical communications).

(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

(C) Section 133 (relating to prohibition against improper incentive arrangements).

(D) Section 135 (relating to prohibition for patient advocacy).

(6) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(7) Treatment of substantially compliant state laws.—For purposes of applying this subsection in connection with health insurance coverage, the information in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provision.

(8) Application to certain prohibitions against retaliation.—With respect to compliance with any provision of section 135(b)(1) of the Bipartisan Patient Protection Act, for purposes of this subtitle the term ‘‘group health plan’’ is deemed to include a reference to an institutional health care provider.

(9) Enforcement of certain requirements.—

(a) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against under section 135(b)(1) of the Bipartisan Patient Protection Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

(b) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider as a result of the violation found by the Secretary.

(c) Conforming regulations.—The Secretary shall coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the Bipartisan Patient Protection Act in order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act with the reporting and disclosure requirements imposed under part 4 of such Act to such extent that a cause of action under State law or other provision in the Bipartisan Patient Protection Act (relating to procedures for initial claims for benefits or prior authorization determinations) or upon review of a denial of a claim under such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision.

(d) Cause of action must not involve medically reviewable decision.—

(1) In general.—In any case in which—

(A) a person who is a beneficiary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under a group health plan under subtitle B of title I of the Bipartisan Patient Protection Act (relating to procedures for initial claims for benefits or prior authorization determinations) or upon review of a denial of a claim under such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision,

(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

(b) a failure to exercise ordinary care in making a cause of personal injury to, or the death of, the participant or beneficiary, such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

(2) Cause of action must not involve medically reviewable decision.—

(A) In general.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

(B) Medically reviewable decision.—For purposes of this paragraph, the term ‘‘medically reviewable decision’’ means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act relating to medically reviewable decisions.

(3) Limitation regarding certain types of actions saved from preemption of state law.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law properly defined in section 114(c) in failure would not be preempted under section 514.

(4) Definitions and related rules.—For purposes of this subsection—

a. Ordinary care means with respect to a determination on a claim for benefits, that degree of care,
skilled, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

"(B) Exception.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or dis ease.

"(C) Claim for benefits; denial.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided in section 102(b)(2) of the Bipartisan Patient Protection Act.

"(D) Terms and conditions.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act.

"(E) Excluded benefits.—Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

"(5) Exclusion of employers and other plan sponsors.—

"(A) Causes of action against employers and plan administrators.—Except as provided in subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan or any employee of such an employer or plan sponsor acting within the scope of employment.

"(B) Certain causes of action permitted.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or plan sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor, provided the plan is not self-funded and the employer or plan sponsor is engaged in direct participation in a decision described in paragraph (1)(A) for the performance of, or the failure to perform, any non-medically reviewable duty (including an employee of such an employer acting within the scope of employment); or

"(ii) A multiemployer plan as defined in section 4001 of the Employee Retirement Income Security Act of 1974, if an employee of an employer or the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility (that is self-funded and self-administered).

"(6) Exclusion of physicians and other health care professionals.—

"(A) Exclusion of treating physician.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(B) Definitions.—For purposes of subparagraph (A) of this section—

"(i) Health care professional.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(ii) Non-medically reviewable duty.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

"(7) Exclusion of hospitals.—No treating hospital of the participant or beneficiary (whether or not a party to the proceeding), a court, or any entity or person offering health insurance coverage in connection with the plan.

"(8) Rule of construction relating to exclusion from liability of physicians, health care professionals, and hospitals.—Nothing in paragraph (6)(B)(ii) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(9) Determination by district court.—(A) In general.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

"(B) Exception for needed care.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102 or 103 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

"(C) Receipt of benefits during appeals process.—Receipt by the participant or beneficiary of the benefits involved in the claim shall not prevent the court from determining the amount of the damages awarded.

"(D) Admissibility.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

"(10) Statutory damages.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

"(E) Assessment of civil penalties.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, on the plan or the plan sponsor may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

"(F) Limitation on attorneys' fees.—(A) In general.—Notwithstanding any other provision of law, any settlement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed 33 1/3 percent of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(G) Determination by district court.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action under Federal jurisdiction, shall have jurisdiction to determine the attorney's fee to ensure that the fee is a reasonable one.
(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

(a) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

(b) the date at which the requirements of paragraph (9) are first met.

(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under the law relating to denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including the determination of whether such a claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to the service or administrative services to the employer or other plan sponsor relating to the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specified instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to any plan of the plan or the employer or other plan sponsor relating to the sale or provision of health insurance coverage offered in connection with the plan.

(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(o)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsections (a)(1)(C) and (C) of this subsection.

(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(A) The liability of such employer or plan sponsor involved (and any employee of such employer or plan sponsor acting within the scope of employment) with respect to such liability under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) may not raise, and

(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.

(C) purifies the liability of employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) cannot raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

(IV) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.

(D) EXCLUSION OF DIRECTED RECORDKEEPERS.—

(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to the service or administrative services to the employer or other plan sponsor relating to the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specified instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to any plan of the plan or the employer or other plan sponsor relating to the sale or provision of health insurance coverage offered in connection with the plan.

(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(o)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsections (a)(1)(C) and (C) of this subsection.

(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(A) The liability of such employer or plan sponsor involved (and any employee of such employer or plan sponsor acting within the scope of employment) with respect to such liability under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) may not raise, and

(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.

(C) purifies the liability of employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) cannot raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

(IV) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.

(D) EXCLUSION OF DIRECTED RECORDKEEPERS.—

(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to the service or administrative services to the employer or other plan sponsor relating to the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specified instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under subsection (c) of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to any plan of the plan or the employer or other plan sponsor relating to the sale or provision of health insurance coverage offered in connection with the plan.

(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(o)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsections (a)(1)(C) and (C) of this subsection.

(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(A) The liability of such employer or plan sponsor involved (and any employee of such employer or plan sponsor acting within the scope of employment) with respect to such liability under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) may not raise, and

(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.

(C) purifies the liability of employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary, or (iv) agrees to be substituted as the designated decisionmaker under this part in the event that the employer or plan sponsor (or employee) cannot raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

(IV) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, including those arising from its service as a designated decisionmaker under this part.
The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and methods and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary of Labor shall establish throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designation decision maker that is a group health plan, plan sponsor, or health insurance issuer that is regulated under Federal law or a State financial solvency law.

(4) APPOINTMENT OF TREATING PHYSICIANS. — A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decision maker under this subsection with respect to such participant or beneficiary.

(2) CONFORMING AMENDMENT. — Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking “or” at the end of subparagraph (A);

(B) in subparagraph (B), by striking “plan,” and inserting “plan, or”; and

(C) adding at the end the following new subparagraph:

“(C) for the relief provided for in subsection (n) of this section.”

(b) RULES RELATING TO ERISA PREEMPTION. — Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

“(d) DESIGNATION TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

“(1) NON-PREAMPTION OF CERTAIN CAUSES OF ACTION.—

“(A) IN GENERAL. — Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supercede, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such participant or beneficiary) arising out of—

(i) the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision;

(ii) the plan administrator or other agent;

(iii) the plan or coverage involved; or

(iv) the employer or other plan sponsor (or employee) in any cost-benefit analysis under independent external appeals procedures.

“(B) MEDICALLY REVIEWABLE DECISION.—

For purposes of subparagraph (A), the term ‘medically reviewable decision’ means a denial of a claim for benefits which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

“(1) IN GENERAL. — Except as provided in clauses (i) and (ii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act were satisfied with respect to the participant or beneficiary. This subsection does not apply to procedures for initial claims for benefits and prior authorization determinations.

“(II) Section 103 of such Act (relating to internal appeals of claims denials).

“(III) Section 104 of such Act (relating to independent external appeals procedures).

“(IV) Paragraphs (1) and (2) of subparagraph (B) of section 104(a) of the Bipartisan Patient Protection Act for WRONGFUL DEATH. — Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

“(V) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR RIGHTS OR SAFETY OF OTHERS. — Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such cause of action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights of others or in a manner so dangerous as to cause the personal injury or wrongful death that is the subject of the action.

“(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

“(A) TREATMENT OF EXCEPTED BENEFITS.— Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection do not apply to certain excepted benefits.

“(B) PERSONAL INJURY.—The term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

“(C) CLAIM FOR BENEFIT; DENIAL. — The terms ‘claim for benefit’ and ‘denial of a claim for benefits’ shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act.

“(D) MANAGED CARE ENTITY. —

“(1) IN GENERAL. — The term ‘managed care entity’ means—

(i) any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any injury or death that is subject of the action.

(ii) any entity that is involved in determining the manner in which the plan is actually administered or offered.

For purposes of this subparagraph, an entity that is merely collateral or precedent in the process of creating, continuing, modifying, or terminating the plan or any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any injury or death that is subject of the action.

(iii) any entity that is merely collateral or precedent in the process of creating, continuing, modifying, or terminating the plan or any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any injury or death that is subject of the action.

“(2) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

“(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED. — Subject to subparagraph (B), paragraph (1) does not apply with respect to—

(i) any cause of action against an employer or other plan sponsor (or employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

“(B) CERTAIN CAUSES OF ACTION PERMITTED. — notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) for damages arising from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

“(C) DIRECT PARTICIPATION.—

“(1) DIRECT PARTICIPATION IN DECISIONS. — For purposes of subparagraph (B), the term ‘direct participation’ means, in connection with a decision described in subparagraph (B) (including actual manifestation or the actual exercise of control in making such decision or in the conduct constituting the failure.

“(2) RULES OF CONSTRUCTION.—For purposes of clause (1), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because the act that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a participant or beneficiary, including (but not limited to) —

“(I) any participation by the employer or other plan sponsor (or employee) in the selection of, or continued maintenance of, the plan or coverage involved;

“(II) any participation by the employer or other plan sponsor (or employee) in any cost-benefit analysis under independent external appeals procedures with the selection of, or continued maintenance of, the plan or coverage involved;

“(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any injury or death that is subject of the action.

“(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

“(IV) BURENCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as having participated in any decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

“(I) any discharge that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

“(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the plan (or against an employee or other plan sponsor (or employee) in any cost-benefit analysis under independent external appeals procedures or any actuarial valuation or the actual exercise of control in the conduct constituting the failure.

“(I) REQUIREMENT OF EXHAUSTION. — (A) IN GENERAL. — Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

“(B) REQUIREMENT OF EXHAUSTION. — (A) IN GENERAL. — A participant or beneficiary shall not be precluded from pursuing a review under section 154 of the Bipartisan Patient Protection Act (if applicable) and in subsection (n) or section 514(d) for purposes of subparagraph (B) (on a particular claim for benefits of a participant or beneficiary, including (but not limited to) —

“(I) any participation by the employer or other plan sponsor (or employee) in the selection of, or continued maintenance of, the plan or coverage involved;

“(II) any participation by the employer or other plan sponsor (or employee) in any cost-benefit analysis under independent external appeals procedures with the selection of, or continued maintenance of, the plan or coverage involved;

“(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any cause of action against an employer or other plan sponsor (or employee) for the purpose of creating, continuing, modifying, or terminating the plan or any injury or death that is subject of the action.

“(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.
shall be available as a result of, or arising pursuant to this subparagraph, no relief of relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under paragraph (1)(A) unless the requirements of subparagraph (A) are met.

"(D) FAILURE TO REVIEW.—

"(1) IN GENERAL.—If the external review entity fails to make a determination within the time period described in section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which the party has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

"(2) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time period described in section 104(e)(1)(A)(ii), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which the party has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

"(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits for the pendency of any administrative processes referred to in subparagraph (D) or in any action commenced under this subsection—

"(1) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party; and

"(2) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such action.

"(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

"(G) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

"(H) EXCLUSION OF DIRECTED RECORDKEEPER.—

"(1) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

"(2) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act, for the purposes of making decisions on claims for benefits.

"(I) DETERMINATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instructions of the group health plan or the plan sponsor.

"(J) CONSTRUCTION.—Nothing in this subparagraph shall be construed as

"(A) applying or interpreting the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act;

"(B) affecting a cause of action under State law other than a cause of action described in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

"(C) excluding a cause of action described in subparagraph (A) relating to quality of care; or

"(K) EXCLUSION OF DIRECTED RECORDKEEPER IN CONNECTION WITH CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms ‘employer’ and ‘plan sponsor’, in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

"(L) EXCLUSIONS OF PERSONAL LIABILITY FOR ACTS PERPETRATED BY DIRECTED RECORDKEEPER.—

"(1) IN GENERAL.—As provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial of benefits relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

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

"(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or 

"(ii) limit liability that otherwise would arise from the provision of the item or service or the performance of a medical procedure.

"(M) EXEMPTION FROM PERSONAL LIABILITY FOR PERSONS ENGAGED IN DISCREET COLLECTION ACTIVITIES.—

"(1) IN GENERAL.—Any person who is—

"(A) a member of a board of directors of an employer or plan sponsor; or

"(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor or plan maintained by two or more employers and one or more employee organizations; shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

"(2) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law) of the State in which the plaintiff resides.

"(N) LIMITATION ON ATTORNEYS FEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney’s fee, the amount of an attorney’s contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed 1⁄3 of the total amount of the plaintiff’s recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(2) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney’s fee to ensure that the fee is a reasonable one.

"(O) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney’s contingency fee that may be imposed on the employer or plan sponsor (or the entity of such participant or beneficiary) who brings such a cause of action.

"(P) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—
(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

(2) superseding any State law permitted under section 512(b)(1)(A) of the Bipartisan Patient Protection Act, or

(3) affecting any applicable State law with respect to limitations on monetary damages.

(f) RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of a determination made by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance provider requiring health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.

(2) EFFECTIVE DATE.—The amendments made by section 402 shall apply to acts and omissions occurring on or after the effective date of section 401.

SEC. 403. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

(p) LIMITATION ON CLASS ACTION LITIGATION.—

(1) In general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivation of the class, the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, derivation of the class, or group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants consolidated for any purpose with any other proceeding. In this paragraph, the terms “group health plan” and “health insurance coverage” have the meanings given such terms in section 733.

(2) Effective date.—This subsection shall apply to all civil actions that are filed or brought on or after January 1, 2002.

SEC. 404. LIMITATION ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 402(a)) is further amended by adding at the end the following new subsection:

(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based upon any provision in any provision in section 101, subchapter B, or subchapter D of title I of the Bipartisan Patient Protection Act (as incorporated under section 714) or any provision in section 111, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act as (as incorporated under section 714) or any provision in section 111, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act as (as incorporated under section 714) to the extent that such action is maintained on or after January 1, 2002.

(2) COMFORMING AMENDMENTS.—

(A) Subparagraph (1) shall apply to all civil actions that are filed on or after January 1, 2002.

SEC. 505. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 109 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

9813. Standard relating to women’s health and cancer rights.

(2) by inserting after section 9813 the following:

SEC. 9814. STANDARD RELATING TO WOMEN’S HEALTH AND CANCER RIGHTS.

The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as amended by section 701), and for attorney fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person affected by such action.

(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

(4) ENFORCEMENT BY SECRETARY UNAFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 111 et seq.) is amended by adding at the end the following new section:

735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary to delegate to the State of some or all of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement under paragraph (a) shall be authorized to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan.


It is the sense of the Senate that the court should consider the loss of a no-wage earning spouse or parent as an economic loss for purposes of determining the award of attorney fees. Furthermore, the court should define the compensation for the loss not as minimum services, but rather, in terms that fully compensate for the true and whole replacement cost to the family.

TITILE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection and Affordable Care Act


Subchapter B of chapter 109 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

9812. Standard relating to patients’ bill of rights.

(2) by inserting after section 9812 the following:

9813. STANDARD RELATING TO PATIENTS’ BILL OF RIGHTS.

A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.

SEC. 502. CONFIRMING ENFORCEMENT FOR WOMEN’S HEALTH AND CANCER RIGHTS.

Subtitle B of chapter 109 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following:

9814. Standard relating to women’s health and cancer rights.

(2) by inserting after section 9813 the following:

SEC. 503. STANDARD RELATING TO WOMEN’S HEALTH AND CANCER RIGHTS.

The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as amended by section 701), and for attorney fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person affected by such action.

(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

(4) ENFORCEMENT BY SECRETARY UNAFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 111 et seq.) is amended by adding at the end the following new section:

735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary to delegate to the State of some or all of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement under paragraph (a) shall be authorized to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan.


It is the sense of the Senate that the court should consider the loss of a no-wage earning spouse or parent as an economic loss for purposes of determining the award of attorney fees. Furthermore, the court should define the compensation for the loss not as minimum services, but rather, in terms that fully compensate for the true and whole replacement cost to the family.

(2) COMFORMING AMENDMENTS.—

(A) Clause (1) of section 220(c)(2)(B) of such Code is amended by striking “paragraph (4)” and inserting “paragraph (5).”

(B) Subparagraph (A) of section 220(c)(4) of such Code is amended by striking “50 or fewer employees” and inserting “100 or fewer employees.”
SEC. 512. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS.—

(a) In General.—(1) HEALTH INSURANCE COVERAGE.—For purposes of this section, "health insurance coverage" has the meaning given such term by section 9832(b)(1).

(2) NEW HEALTH PLAN.—(A) In General.—The term "new health plan" means any arrangement of the employer which provides health insurance coverage to employees (at least 70 percent of the qualified employees of such employer).

(B) QUALIFIED EMPLOYER.—(i) In General.—The term "qualified employer" means an employer if—

(I) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 5-year period ending prior to the taxable year in which the credit under this section is first allowed, and

(II) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

(2) TREATMENT OF CERTAIN EMPLOYERS.—The term ‘employee’ shall include a leased employee within the meaning of section 414(n).

(3) SMALL EMPLOYER.—The term ‘small employer’ has the meaning given to such term by section 8802(d)(2); except that only qualified employees shall be taken into account.

(c) Special Rules.—(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 414(i) shall apply.

(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

(d) Denial of Double Benefit.—(1) IN GENERAL.—This section shall not apply to any expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2010.

(2) credit to be part of general business expenses.—(A) In General.—The term qualified health benefit plan means any plan provided under a new health plan for employees of such employer.

(B) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

(I) in the case of insurance purchased as self-only coverage for the 4-year period beginning after December 31, 2001, 100 percent;

(II) in the case of insurance purchased as family coverage, 70 percent.

(c) limitations.—(1) EXCLUSIVE DOLLAR LIMITATION.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

(A) $2,000 in the case of self-only coverage, and

(B) $5,000 in the case of family coverage.

(2) Period of Coverage.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes such plan.

(d) Definitions.—For purposes of this section—

(1) Health Insurance Coverage.—The term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1).

(f) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001, for arrangements established after the date of the enactment of this Act.

SEC. 514. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.—

(a) In General.—Subpart D of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"* Sec. 45E. Small Business Health Insurance Expenses.—

"(a) General Rule.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

(b) Applicable Percentage.—For purposes of subsection (a), the applicable percentage is—

(I) in the case of insurance purchased as self-only coverage for the 4-year period beginning after December 31, 2001, 100 percent;

(II) in the case of insurance purchased as family coverage, 70 percent.

(c) Limitations.—(1) Exclusive Dollar Limitation.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

(A) $2,000 in the case of self-only coverage, and

(B) $5,000 in the case of family coverage.

In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer’s spouse and dependents.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 513. QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

(a) In General.—(1) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1).

(2) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition to—

(i) establish or maintain such coalition;

(ii) make payment to, or for the benefit of, members of the coalition, in equal number, of the coalition, in equal number, of members of the coalition, in equal number, of members of the coalition, in equal number, of qualified health benefit purchasing coalition distributions by a private foundation (as so defined) to a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition;

(3) MEMBERSHIP.—The term ‘qualified health benefit purchasing coalition’ means any amount paid or incurred more than 48 months after the date of establishment of such coalition.

(4) TERMINATION.—This subsection shall not apply—

(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2009, and

(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2010.

(5) Qualified Health Benefit Purchasing Coalition.—(1) In General.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

"Subchapter D—Qualified Health Benefit Purchasing Coalition

"Sec. 9841. Qualified health benefit purchasing coalition.

"Sec. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(a) In General.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

(i) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

(b) Board of Directors.—(1) IN GENERAL.—Each purchasing coalition under this section shall be governed by a Board of Directors.

(2) TERRITORY.—The Secretary shall establish procedures governing election of such Board.

(c) Membership.—The Board of Directors shall—

(A) be composed of representatives of the members of the coalition, in equal number,
including small employers and employee representatives of such employers, but "(B) not include other interested parties, such as service providers, health insurers, or insurance companies which may have a conflict of interest with the purposes of the coalition.

(c) MEMBERSHIP OF COALITION.—

"(1) IN GENERAL.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

"(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

"(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employers and retirees of such employers,

"(2) where feasible, enter into agreements with qualified, or operated in the individual market on

"(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

(g) RELATION TO OTHER LAWS.—

"(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to group health plans similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

"(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other factors.

"(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market, including qualified health benefit purchasing coalitions.

(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

"(1) the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, any calendar year may be taken into account only if the employer was in existence throughout such year.

"(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING CALENDAR YEAR.—If an employer which was not in existence throughout the first preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

SEC. 515. STATE GRANT PROGRAM FOR MARKET LAWS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program (in this section referred to as the "program") to award demonstration grants under this section to States to demonstrate innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide a demonstration grant to a State that otherwise fails to meet any of the following conditions:

(A) the State will provide for demonstrated increase in access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among insured and uninsured employees (or, if any State law or other factor as defined in section 2791(d)(9) of the Public Health Service Act, except to the extent a State wishes to focus on populations that would not otherwise obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary shall specify;

(B) the application includes information regarding the provision of such grants, or alternative approaches to such provision, in each of the following:

(i) the costs of each such grant;

(ii) the use of such grants to increase the number of uninsured individuals in the State or all health care benefits with respect to such individuals; and

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each year out of any funds in this section. Amounts appropriated under this subsection shall remain available until expended.

TITLe VI-EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so related to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so related to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof) after the date of the enactment of this Act; or

(B) the general effective date; but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), such an extension shall be taken to be a termination of such collective bargaining agreement.

(c) DEFINITION OF INDIVIDUAL HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Any State law that provides any individual health insurance coverage is amended by adding at the end the following: -- Subchapter D. Qualified health benefit purchasing coalitions.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 615. STATE GRANT PROGRAM FOR MARKET LAWS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program (in this section referred to as the "program") to award demonstration grants under this section to States to demonstrate innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide a demonstration grant to a State that otherwise fails to meet any of the following conditions:

(A) the State will provide for demonstrated increase in access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among insured and uninsured employees (or, if any State law or other factor as defined in section 2791(d)(9) of the Public Health Service Act, except to the extent a State wishes to focus on populations that would not otherwise obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary shall specify;

(B) the application includes information regarding the provision of such grants, or alternative approaches to such provision, in each of the following:

(i) the costs of each such grant;

(ii) the use of such grants to increase the number of uninsured individuals in the State or all health care benefits with respect to such individuals; and

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each year out of any funds in this section. Amounts appropriated under this subsection shall remain available until expended.

TITLe VI-EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so related to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so related to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof) after the date of the enactment of this Act; or

(B) the general effective date; but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), such an extension shall be taken to be a termination of such collective bargaining agreement.

(c) DEFINITION OF INDIVIDUAL HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Any State law that provides any individual health insurance coverage is amended by adding at the end the following: -- Subchapter D. Qualified health benefit purchasing coalitions.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.
(c) Treatment of Religious Nonmedical Providers.—

(1) In General.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards for determining provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not maintain religious affiliation data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) Treatment of Religious Nonmedical Provider.—For purposes of this subsection, the term ‘religious nonmedical provider’ means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) Transition for Notice Requirement.—

The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first day as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions of such act to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY DISABILITY

(a) In General.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) Extent of Secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) Transfer of funds.—If, under paragraph (1), the Secretary estimates that this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 702. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking “2003” and inserting “2011, except that fees shall be payable on Sunday, September 1, 2011”.

SEC. 703. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that would otherwise be sent to the Secretary of the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a contract under section 1842 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 704. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) Findings.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancers.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson’s disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 198,100 men will be diagnosed with prostate cancer this year.

(10) 31,500 men will die from prostate cancer this year.

(11) It is the second leading cause of cancer in men.

(12) While information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(13) While employers and health plans should be responsible for covering the routine costs associated with federally approved treatments for patients and paid for under health plans, health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statutes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) men and women battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(3) that individual’s participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(4) that the referring physician is a participating health care professional and has concluded that the individual’s participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(5) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2); or

(6) a child with a rare cancer should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(7) a child with a life-threatening illness, including cancer, should be allowed to participate in a cancer center capable of providing high quality care for that disease; and

(8) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2).

It is the sense of the Senate that an in-network physician without the necessary expertise can provide care for a seriously ill patient, including a woman battling cancer, should be appealable to an independent, impartial body, and that this same right should be available to all Americans in need of access to high quality specialty care.

SEC. 705. SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

(a) Findings.—The Senate finds the following:

(1) A fair, timely, impartial independent external appeals process is essential to any meaningful program of patient protection.

(2) The independence and objectivity of the review organization and review process must be ensured.

(3) It is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(4) The American Arbitration Association and arbitration standards adopted under chapter 44 of title 28, United States Code (28 U.S.C. 591 et seq.) both prohibit, as inherently unfair, the right of one party to a dispute to choose the judge in that dispute.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) every patient who is denied care by a health maintenance organization or other health insurance company should be entitled to a fair, speedy, impartial appeal to a review organization that has not been selected by the health plan;
(2) the States should be empowered to maintain and develop the appropriate process for selection of the independent external review entity;

(3) a child battling a rare cancer whose health maintenance organization has denied a covered treatment recommended by its physician should be entitled to a fair and impartial review of its request to review the organization that has not been chosen by the organization or plan that has denied the care; and

(4) patient protection legislation should not permit State laws to remain in place where there are already strong laws in place regarding the selection of independent review organizations.

SEC. 705. ANNUAL REVIEW.
(a) In General.—Not later than 24 months after the general effective date referred to in section 301(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine prepare for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendment made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) R EPORTING WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States would not have health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective on the date that is 12 months after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SEC. 706. DEFINITION OF BORN-ALIVE INFANT. (a) In General.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 18. *Person*, *human being*, *child*, and *individual* as including born-alive infant.*

(i) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(ii) As used in this section, the term ‘born alive’ means an individual who after being subjected to a voluntary act to terminate pregnancy has breathed or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

(iii) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"§ 18. *Person*, *human being*, *child*, and *individual* as including born-alive infant.*

The CHAIRMAN. No amendment is in order except those printed in House Report 107-184. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be the subject of a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 107-184.

AMENDMENT NO. 1 OFFERED BY MR. THOMAS
Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Subtitle A—General Provisions

In section 301(a), insert "subsection A of" before "title IV."

Add at the end of title IV the following new subtitle (and conform the table of contents accordingly):

Subtitle B—Association Health Plans

SEC. 421. RULES GOVERNING ASSOCIATION HEALTH PLANS.
(a) In General.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS"

"SEC. 801. ASSOCIATION HEALTH PLANS."

(a) In General.—For purposes of this part, the term ‘association health plan’ means a plan which all benefits consist of health insurance, or a group health plan whose sponsor is—

(1) an organization or trade association, or a professional consulting services; sanitary services; financial services; and cosmetology; certified public accounting practices; child care; construction; dance, theater, and orchestral services; disinf ecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services;
SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if (A) the sponsor is deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member of the association and (B) each franchisee was deemed to be a provider of medical care under the plan.

(b) BOARD OF TRUSTEES.—The requirements of this subsection are met when the board of trustees has sole responsibility for the day-to-day administration of a plan.

(c) TREATMENT OF PERSONS WITH RESPECT TO CERTAIN PLANS.—

(1) CONTENTS.—The requirements of section 804 are met with respect to an association health plan if the plan is a multiemployer plan.

(2) CONSTRUCTION.—The Secretary, in determining whether an association health plan is a multiemployer plan, shall consider relevant factors, including the following:

(A) the beneficiaries of individuals covered under the plan;

(B) the dates on which the plan was first offered for coverage or was first made available for coverage; and

(C) the dates on which the plan was offered for coverage or was made available for coverage.

SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this section are met with respect to an association health plan if (1) the requirements of subsection (a)(1) are met, (2) the joint board of trustees shall be deemed to be the board of trustees with respect to which the requirements of subsection (b) are met, and (3) the requirements of section 804 are met with respect to any of its employees who would otherwise be eligible to participate in the plan.

(b) LIMITATION.—

(1) GENERAL.—In the case of an association health plan, from the date of the offering of such coverage, the plan shall be deemed a board of trustees with respect to which the requirements of section 804 are met.

(2) CONSTRUCTION.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this section if the plan applies for, and obtains, certification of the plan as an association health plan under this part.

(c) TREATMENT OF PROVIDERS OF SERVICES.—

(1) CONTENTS.—The requirements of section 804 are met with respect to an association health plan if the requirements of subsection (b) are met, except that, in the case of a provider who is a professional association or other individual-based association, if at least one of the individual members participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such a provider.

(2) NON-DISCRIMINATION.—

(A) CONTENT.—The requirements of section 804 are met with respect to an association health plan if the requirements of subsection (b) are met, except that, in the case of a provider who is a professional association or other individual-based association, if at least one of the professional association or other individual-based association, if at least one of the individual members participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such a provider.

(B) CONSTRUCTION.—The Secretary, in determining whether an association health plan is a multiemployer plan, shall consider relevant factors, including the following:

(i) the affiliate is a provider of medical care under the plan;

(ii) the affiliate is a provider of medical care under the plan; and

(iii) the affiliate is a provider of medical care under the plan.

SEC. 805. OTHER REQUIREMENTS RELATING TO PLANS.

(a) CONTRIBUTION RATES.—The requirements of this section are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee who was an employer on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

(b) FLOOR FOR NO COVERAGE INDIVIDUALS.—The requirements of this section are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee who was an employer on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.
has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

(4) Marketing Requirements—

(A) The plan has a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute in small group health insurance coverage which will consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage in such State.

(B) State-licensed insurance agents—

For purposes of subparagraph (A), the term ‘State-licensed insurance agents’ means one or more insurance agents licensed by the State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

(5) Regulatory Requirements—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

(6) Provision for Design Options to Design Benefit Options.—Subject to section 514(e), nothing in this part or any provision of this subpart (subject to section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage; or (2) is preempted under section 731(a)(1) with respect to matters governed by State law (as defined in section 514(c)(1)(A)).

SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

(a) In General.—The requirements of this section are met with respect to an association health plan if—

(1) the benefits under the plan consist solely of health insurance coverage or

(2) if the plan provides any additional benefits, the additional benefits do not consist of health insurance coverage, the plan—

(A) establishes and maintains reserves with respect to such additional benefit options, in amount recommended by the qualified actuary, consisting of—

(i) a reserve sufficient for unearned contributions;

(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

(iii) a reserve sufficient for any other obligations of the plan; and

(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and by such regulation, and by such plan consistent with the amounts required under subparagraph (A).

(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to the amount recommended by the plan’s qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

(b) Minimum Surplus in Addition to Claims Reserves—

(1) $500,000, or

(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

(c) Additional Requirements.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

(d) Additional Requirements for Excess/Stop Loss Insurance.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsection (a)(2) and (b) to the extent appropriate to the circumstances of the plan. The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsection (a)(2) and (b) to the extent appropriate to the circumstances of the plan.

(e) Alternative Means of Compliance.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold harmless arrangement, or other financial arrangement as the applicable authority determines is necessary to ensure the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor of an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letters of credit, recourse under applicable law, or other applicable terms of the plan in the form of agreements of participating employers, security, or other financial arrangement.

(f) Measures to Ensure Continued Payment of Benefits by Certain Plans in Dissolution.—

(1) Payments by Certain Plans to Association Health Plan Fund.—

(A) In General.—In the case of an association health plan described in subsection (a)(2), if the amounts required under paragraph (2) are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall be in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraphs (C) and (D) of this subparagraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of the plan year. Such payments shall continue to accrue until a plan’s assets are distributed pursuant to a termination procedure.

(B) Penalties for Failure to Make Payments.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

(C) Continued Duty of the Secretary.—The Secretary shall not cease to carry out the duties imposed by this section as to a plan in the event of the failure of a plan to pay any payment when due.

(D) Penalties by Secretary to Continue Excess/Stop Loss Insurance Coverage and Indemnification Insurance Coverage for Certain Plans.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be, (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary); the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

(E) Association Health Plan Fund.—

(1) In General.—There is established on the books of the Treasury a fund to be known as the ‘Association Health Plan Fund’. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

(2) Investment.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(g) Excess/Stop Loss Insurance. —For purposes of this section—

(1) Aggregate Excess/Stop Loss Insurance.—The term ‘aggregate excess/stop loss insurance’ means, in connection with an association health plan, a contract—

(A) under which an insurer (meeting such other requirements as the applicable authority determines to be necessary) administers the plan in accordance with such other requirements as the applicable authority determines to be necessary under this section, provides coverage for claims which are not otherwise covered under the plan, and is not subject to any noncontributory requirements.

B

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claims under the plan in excess of an amount or amounts specified in such contract;—

"(B) which is guaranteed renewable; and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

2. SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term "specific excess/stop loss insurance" means, in connection with an association health plan:

"(A) which is guaranteed renewable; and

"(B) which is available in a form of coverage referred to in section 801(b)(1), or their

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

3. INDEMNIFICATION INSURANCE.—For purposes of this section, the term "indemnification insurance" means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as the applicable au-

the operation of the plan.

authority may prescribe through negotiated
rations of section 806 are or will be met in ac-
the applicable authority shall prescribe through nego-

4. BONDING REQUIREMENTS.—A copy of the docu-
mants comprising information necessary to be

5. FUNDING REPORT.—In the case of assoc-

6. ENGAGEMENT OF QUALIFIED ACTUARY.—

The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage for such plan year shall meet the requirements of section 105 by fil-

7. OTHER INFORMATION.—Any other infor-

8. SEC. 807. REQUIREMENTS FOR APPLICATION

9. SEC. 808. NOTICE REQUIREMENTS FOR VOL-

10. SEC. 809. FILING NOTICE OF CERTIFICATION WITH

11. SEC. 806. NOTICE REQUIREMENTS FOR CERTAIN

12. SEC. 805. REQUIREMENTS FOR APPLICATION AND

13. SEC. 804. REQUIREMENTS FOR CERTIFICATION

14. SEC. 803. ADMINISTRATION OF CERTIFICATION

15. SEC. 802. OPINION BY THE QUALIFIED ACTUARY

16. SEC. 801. DEFINITIONS.
"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION

"(a) Appointment of Secretary as Trustee. — An association health plan which is certified under this part and which provides benefits other than health insurance coverage under the plan, or any plan that would meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and, if the plan shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the board determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking of such recommendations and of the action, if any, that the board has taken or plans to take in response to such recommendations. The board shall thereupon report to the applicable authority, in such form and frequency as the applicable authority may specify, to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) Mandatory Termination. — In any case in which

"(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action is necessary to ensure compliance with such requirements; and

"(2) the applicable authority determines that there is a reasonable expectation that the plan will fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, shall do all things necessary in connection with the plan and all of such assets as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B) and recovering for the plan any liability under subsection (a) of section 806,

"(c) Notice of Termination. — As soon as practicable after giving notice of any such termination to the participants, the board of trustees shall give notice of such termination to the applicable authority.

"(d) Notice of Appointment. — As soon as practicable after an appointment to act as trustee under this section by the applicable authority, the Secretary shall give notice to the plan administrator, any participating employer, and any employee organization representing plan participants of the appointment to act as trustee under this section.

"(e) Time of Service as Trustee. — As soon as practicable after an appointment to act as trustee under this section, the Secretary shall take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B) and recovering for the plan any liability under subsection (a) of section 806,

"(f) Powers as Trustee. — The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or any applicable provisions of law to be done by the plan administrator or any trustee of the plan;

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary;

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trustee;

"(6) to commence, prosecute, or defend, or on behalf of the plan any suit or proceeding involving the plan;

"(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking, and applicable provisions of law;

"(8) to terminate the plan (or provide for its termination in accordance with section 806(b)) and liquidate the plan assets, to restore the plan to its solvency or the solvency of the sponsor, or to continue the trusteeship;

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court to protect the interests of plan participants and beneficiaries and providers of medical care.

Notice of Appointment. — As soon as practicable after an appointment as trustee under this section, the Secretary shall give written notice to the plan administrator, any participating employer, and any employee organization representing plan participants in accordance with regulations which shall be prescribed by the Secretary for purposes of this section.

"(g) Additional Duties. — Except to the extent inconsistent with the provisions of this title, or as may be ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 4007 of the Employee Retirement Income Security Act of 1974, and shall have the duties of a fiduciary for purposes of this title.

"(h) Other Proceedings. — An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, receivership, or other proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan, or any other proceeding to enforce a lien against property of the plan or the sponsor, or any other proceeding to enforce a lien against property of the plan or any other proceeding to enforce a lien against property of the plan or the sponsor.

Sec. 811. STATE ASSESSMENT AUTHORITY

"(a) In General. — Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806, if the plan commences operations in such State after the date of the enactment of the Bipartisan Patient Protection Act.

"(b) Tax Rate. — For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan shall mean any tax imposed by such State if

"(1) such tax is computed by applying a rate to the amount of premiums or contributions,

"(2) the tax is imposed by a State on an association health plan that was received by or on behalf of a labor organization, a plan administrator, or other person or entity authorized by law to be done by the plan administrator or the applicable authority.

Sec. 812. STATE ASSESSMENT AUTHORITY

"(a) Compliance. — The Secretary shall prescribe regulations to carry out the purposes of this title.
aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

**SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.**

(a) Definitions.—For purposes of this Act—

(1) group health plan.—The term ‘group health plan’ has the meaning provided in section 733(a)(1) after applying subsection (b) of this section.

(2) medical care.—The term ‘medical care’ has the meaning provided in section 733(a)(2).

(3) health insurance coverage.—The term ‘health insurance coverage’ has the meaning provided in section 733(b)(1).

(4) health insurance issuer.—The term ‘health insurance issuer’ has the meaning provided in section 733(b)(2).

(b) Applicable Authority.—

(A) in general.—Except as provided in subparagraph (B), the term ‘applicable authority’ means, in connection with an association health plan—

(i) the State to which such plan has been delegated in connection with such plan; or

(ii) the State referred to in clause (i), the Secretary.

(B) Exclusions.—

(i) joint authorities.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 806(a) (in the fourth instance), and section 806(b)(1), such term means, with respect to an employer of such plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

(ii) regulatory authorities.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 806(b)(7), section 806(c)(5), section 806(d), paragraphs (1) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a), such term means, in connection with an association health plan, the Secretary.

(6) health status-related factor.—The term ‘health status-related factor’ has the meaning provided in section 733(d)(2).

(7) individual market.—

(A) in general.—The term ‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(B) treatment of very small groups.—

(i) in general.—Where such term appears in section 802(a)(2), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees of such employer, as such an employee, an employer who is not a large employer.

(ii) rules of construction.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of determining whether a plan, fund, or program so determined to be such an employee welfare benefit plan—

(A) in the case of a partnership, the term ‘employer’ (as defined in section 3(5)) includes the partnership in relation to the partners, and the term ‘employee’ (as defined in section 3(6)) includes any partner in relation to the partnership; and

(B) in the case of a self-employed individual, the term ‘employer’ (as defined in section 3(5)) and the term ‘employee’ (as defined in section 36(6)) shall include such individual.

(2) plans, funds, and programs treated as employee welfare benefit plans.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder, and which demonstrates to the Secretary that all requirements for certification under this part and such regulations with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated as an employee welfare benefit plan on and after the date of such demonstration.

(b) Conforming Amendments to Preemption Rules.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new paragraph:

‘‘The preceding subparagraphs of this paragraph do not apply with respect to any requirement under the association health plan which is certified under part 8.’’.

(2) Section 514 of such Act (29 U.S.C. 1144), as amended by section 142, is amended—

(A) in subsection (b), by inserting ‘‘subsection (a)’’ in paragraph (A) and inserting ‘‘subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805’’, and by striking ‘‘subsection (a)’’ in subparagraph (B) and inserting ‘‘subsection (a) of this section subsection (a)(2)(B) or (b) of section 805’’;

(B) by redesignating subsection (e) as subsection (f); and

(C) by inserting after section (d) the following new section:

‘‘(A) in any case in which such plan is offered in connection with an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede and override any State law in such State, if such State law is in conflict with the provisions of this title.’’.

‘‘(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

(A) in any case in which such plan is offered in connection with such plan, fund, or program if such plan, fund, or program is treated as an employee welfare benefit plan which is an association health plan, and for purposes of determining whether such plan, fund, or program so determined to be such an employee welfare benefit plan—

(A) in the case of a partnership, the term ‘employer’ (as defined in section 3(5)) includes the partnership in relation to the partners, and the term ‘employee’ (as defined in section 3(6)) includes any partner in relation to the partnership; and

(B) in the case of a self-employed individual, the term ‘employer’ (as defined in section 3(5)) shall include such individual.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (1), by striking ‘‘and’’ at the end

(ii) of clause (i), by inserting ‘‘and which does not provide medical care (within the meaning of section 733(a)(2))’’, after ‘‘arrangement’’, and by striking ‘‘title’’ and ‘‘section’’;

and

(C) by adding at the end the following new clause:

(iii) subject to subparagraph (B), in the case of such other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care

(ii) of paragraph (1), by inserting ‘‘which’’ before ‘‘such plan’’.
(within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ‘‘Nothing’’ and inserting ‘‘(1) Except as provided in paragraph (2), nothing’’; and

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

‘‘(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Bipartisan Patient Protection Act shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-references on the following:

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: ‘‘Such term also includes a person serving as the sponsor of an association health plan under part B.’’

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 1002(b)) is amended by adding at the end the following:

‘‘An association health plan shall include in its summary plan description, in connection with each benefit option, a description of solvency guarantees provided pursuant to this Act or applicable State law, if any.’’

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ‘‘or part B’’ after ‘‘this part’’.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1058) is amended by adding at the end the following:

‘‘(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—

(a) In General.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows: ‘‘(i)1) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 6(d) of the National Labor Relations Act (29 U.S.C. 158(d) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),’’.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following:

‘‘(i) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

(I) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

(II) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 6(d) of the National Labor Relations Act (29 U.S.C. 158(d) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, the following requirements are met:

(ii) The plan or arrangement is treated as established or maintained in accordance with this subparagraph only if—

(I) the plan or arrangement is treated as established or maintained in accordance with this subparagraph only if—

(III) the employee organization or any other entity sponsoring the plan or arrangement that entity is a covered individual described in paragraph (2).’’.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

‘‘PART B—RULES GOVERNING ASSOCIATION HEALTH PLANS

Sec. 801. Association health plans.

Sec. 802. Creation of association health plans.

Sec. 803. Requirements relating to sponsors and boards of trustees.

Sec. 804. Participation and coverage requirements.

Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.

Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.

Sec. 807. Requirements for application and registration.

Sec. 808. Notice requirements for voluntary termination.

Sec. 809. Corrective actions and mandatory termination.

Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.

Sec. 811. State assessment authority.

Sec. 812. Definitions and rules of construction.’’.

SEC. 423. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) In General.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows: ‘‘(i)1) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 6(d) of the National Labor Relations Act (29 U.S.C. 158(d) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),’’.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following:

‘‘(i) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

(I) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

(II) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 6(d) of the National Labor Relations Act (29 U.S.C. 158(d) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, the following requirements are met:

(ii) The plan or arrangement is treated as established or maintained in accordance with this subparagraph only if—

(I) the plan or arrangement is treated as established or maintained in accordance with this subparagraph only if—

(III) the employee organization or any other entity sponsoring the plan or arrangement that entity is a covered individual described in paragraph (2).’’.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following:

‘‘(II) ‘‘participant’’ means an individual who is a covered individual described in paragraph (4)(C)(ii).’’.

This page has been amended by the introduction of a new subparagraph (b) in Section 3(40) of the Employee Retirement Income Security Act of 1974.
SEC. 424. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS. 

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL VIOLATIONS.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting ‘‘(i) after ‘‘SEC. 501.’’; and

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

‘‘(b) any person who willfully falsely represents, to any employee, any employee’s beneficiaries, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering, providing, any benefit described in section 3(1) to employees or their beneficiaries as—

‘‘(1) an association health plan which has been certified under part 8;

‘‘(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

‘‘(3) a district court of the United States shall

SEC. 425. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 423 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

‘‘(c) COOPERATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

‘‘(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

(A) the Secretary’s authority under sections 501 and 511 to enforce the requirements for certification under part 8; and

(B) the Secretary’s authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

‘‘(2) RECOGNITION OF PRIMARY Domicile State.—In carrying out paragraph (1), the Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

(A) the Secretary’s authority under sections 501 and 511 to enforce the requirements for certification under part 8; and

(B) the Secretary’s authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

‘‘(3) ADDITIONAL EQUITABLE RELIEF.—The amendments made by section 424 shall take effect one year from the date of enactment. The amendments made by sections 422 and 423 shall take effect on the date of enactment.

The requirements of section 801(b) of such Act shall be deemed met with respect to any arrangement made by the Secretary to certify association health plans under part 8 if such arrangement is maintained in a State for the purpose of offering, providing, any benefit described in section 3(1) to employees or their beneficiaries as—

(1) being an association health plan which has been certified under part 8;

(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

‘‘(d) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

(A) CRIMINAL PENALTIES FOR CERTAIN WILLFUL VIOLATIONS of any State in which the plan or arrangement offers or provides medical care (as defined in section 733(a)(2))—

(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary or any beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering, providing, any benefit described in section 3(1) to employees or their beneficiaries as—

(2) monthly limitation.

The monthly limitation for any month is the amount equal

SEC. 511. EXPANSION OF AVAILABILITY OF ARMS CHER MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (i) of section 220(c) of such Code is amended by striking subparagraph (B).

(2) Section 138 of such Code is amended by striking section (f).

(3) Paragraph (1) of section 220(c) of such Code is amended to read as follows—

‘‘(1) Section 220(c) of such Code is amended to read as follows and conform the table of contents accordingly:

(4) Paragraph (d) of section 220(c) of such Code is amended by striking subparagraph (A).

(5) Paragraph (2) of such Code is amended by striking paragraph (4) (defining small employer).

(6) Paragraph (c) of section 220(c) of such Code is amended to read as follows—

‘‘(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWABLE FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(1) of such Code (relating to eligible individuals) is amended to read as follows—

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking paragraph (d).

(B) Section 220(c) of such Code is amended by striking paragraph (f).

(C) Paragraph (1) of such Code is amended by striking paragraph (g) (defining small employer).

(D) Section 220(c)(1) of such Code is amended by striking paragraph (h).

(E) Paragraph (2) of such Code is amended by striking paragraph (i), and by redesignating paragraphs (j), (k), (l), and (m) as paragraphs (j), (k), (l), and (m), respectively.

(F) INCREASE IN AMOUNT OF DEDUCTION ALLOWABLE FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows—

(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal
to 1/3 of the annual deductible (as of the first day of such month) of the individual’s coverage under the high deductible health plan.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking "75 percent of".

(d) EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—(Paragrapgh (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)) of such Code is amended by striking "section 106(b)" and inserting "$1,000 amount in subsection (c)(2)(A)(i) and section 125 of such Code (as redesignated by subsection (b)(2)) is amended by striking "section 106(b)" and inserting "$3,000 in clause (ii) and inserting "$2,000.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220(c)(2) of such Code is amended to read as follows:

"(g) COST-OF-LIVING ADJUSTMENT.—

(1) In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

(A) the dollar amount, multiplied by—

(B) the cost-of-living adjustment determined under paragraph (1)(f)(3) for the calendar year in which such taxable year begins by subtracting, from the amount in effect for calendar year 1997 in subparagraph (B) thereof, the $2,000 amount in subsection (c)(2), and

(2) SPECIAL RULES.—In the case of the Archer MSAs, and in honor of the former chairman of the Committee on Ways and Means, these have become known as Archer tax deductions.

The problem with the Archer MSAs was that they were not permanent. They were not a viable insurance product, and notwithstanding recent polls that show that up to 90 percent of Americans believe these are necessary and appropriate, especially among that group that is the least insured with health insurance, the 18- to 29-year-olds who have that 91 percent desirability for this insurance, the structure of MSAs has been such that it does not work.

Mr. Chairman, this amendment refines medical savings accounts to produce a viable insurance product.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from California (Mr. SAM JOHNSON) to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. STARK) claims the time in opposition.

Mr. STARK. Mr. Chairman, I ask unanimous consent to allocate 10 minutes to the gentleman from New Jersey (Mr. ANDREWS) to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.
good for women. In fact, AHPs are strongly supported by the National Association of Women Business Owners, Women Impacting Public Policy, in addition to a host of other groups committed to increasing access to health care for hardworking women Americans.

Many small businesses do not have the ability to negotiate affordable health care prices the way big companies can. I think we should give them an opportunity to level this playing field.

I urge all of my colleagues to remember the women and uninsured of America and adopt this amendment.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume. I ask that the gentlewoman from New York if she would care to respond to a question and answer for me if she knows of any women’s group in the United States that endorses this outside of perhaps the Eagle Forum.

Mr. Chairman, if the gentlewoman will yield, Mr. Chairman, I am sorry, perhaps the gentlewoman was not listening. Yes. The National Association of Women Business Owners and the Women Impacting Public Policy both. That is what I was told. There are others.

Mr. STARK. There are?

Mrs. KELLY. Yes.

Mr. STARK. Which others?

Mrs. KELLY. I do not have a list of them in my hand, but there are others.

Mr. STARK. I thank the gentlewoman.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. KLECKZA).

Ms. KLECKZA. Mr. Chairman, I rise in strong opposition to this amendment, especially the portion dealing with medical savings accounts. What are those? We all know about retirement savings accounts, IRAs; we know about education savings accounts putting away money for your child’s education. Now we have medical savings accounts.

My question to the proponents is, where are individuals going to get all this money left over to give to your employer-sponsored health insurance? The reason so many people have faced today by medical savings accounts is that a far higher mix of seriously ill patients are flocking into MSAs than other health plans, to the point that negative selection is currently hurting MSAs, not traditional insurance. The reason so many people will break out of managed care entirely and take control of their own health care for the first time in many years. I do not have time to go into this a lot, but some of the most serious, real problems faced in preexisting conditions are flocking to MSAs is that MSAs provide freedom, freedom to get the drug your doctor ordered, freedom to see your specialist without seeking permission from anyone or to have to file an appeal for anything.

I urge my colleagues to support this amendment for medical savings accounts because I think that it will help all of us do one of the things I have been trying to do all along; is get away from managed care.

Mr. STARK. Mr. Chairman, I am happy to yield 1½ minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, as the sponsor of this amendment pointed out, this amendment deals with two points: one is medical savings accounts, the other is association health plans. I want to deal with the second issue, because I think it will have the unintended consequence of actually increasing the number of uninsured, not increasing the number of insured.

Let me just give you an example. In my State of Maryland, we have already had small market reform. Small companies can already join a state-regulated plan that is much less expensive than on the open market. If we are to adopt the associated health plan that is in this amendment, it will be the death knell for the small market reform in the State of Maryland.

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Let me just give you an example. In my State of Maryland, we have already had small market reform. Small companies can already join a state-regulated plan that is much less expensive than on the open market. If we are to adopt the associated health plan that is in this amendment, it will be the death knell for the small market reform in the State of Maryland. Maryland is not alone. Other States have done the same thing. The reason quite frankly is the success of the Maryland small market reform is based on all small employers coming into the Maryland plan, not picking and choosing but giving a better deal. If we allow the associated health plans, that means there will be less companies insured in the State of Maryland. Do not take my word for it; take the word of Steve Larsen, the insurance commissioner for the State of Maryland, who is urging us not to pass this amendment and points out that the National Association of Insurance Commissioners opposes the amendment.

I would urge my colleagues to reject this amendment because it will increase the number of uninsured and reduce the opportunity for small companies in this country.

Mr. CARDIN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. Ryan).

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding time. I am curious as I watch this debate over medical savings accounts from the other side, if you are so much against MSAs, then why do you expand MSAs in your own bill? The Geske-Dingell bill has medical savings accounts expansion and extension of them in their own legislation. So if this amendment gives us a chance to do is determine whether or not we can also improve the accessibility and affordability of health care. We all know that health care is getting too expensive, that it is inaccessible for too many people. This bill will do many great things to improve the quality of health care, but we need to work on making it more affordable for working families and we need to make it more accessible.

Association health plans, which is also in this amendment which is being ignored right now, allows the small little guy, the small businesses to band together to jointly purchase health insurance so they can get that big volume discount that the big companies have. That is what we are accomplishing in this. We are giving small businesses, where 85 percent of the working family works for, the chance to get the same kind of health insurance deals that large corporations do, making health care more accessible and more affordable. Medical savings accounts as validated in the opposition’s bill also expands freedom of choice in health care.

Mr. CARDIN. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. Becerra).

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me this time.

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sudden have to go against all those good physicians, all those good health care providers who are saying, please, do no harm to the Patients’ Bill of Rights that we had, the same bill that last year got some 270 votes from the same Chamber. Why did we have to go into the back room and do this harm through these damaging three amendments that we have here before us? Why is it that we have to strip the accountability from the bill that would make sure that HMOs and insurance plans are accountable? We should follow what we did last year. We should follow what we did last year. We should follow what we did last year.

We have a great base bill before us. We should follow what we did last year. We should have the bipartisan vote that gave us 271 people in this same House of Representatives to vote for it and move forward and have what the American people want, a bill that will do no harm. Unfortunately, these amendments are killer. These are amendments. Please vote against all three of these amendments that are coming up and vote for the Dingell bill which is the true Patients’ Bill of Rights.

Mr. STARK of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Chairman, in 1996 Congress provided patients with options to save for their health care needs and manage their own health care needs by creating medical savings accounts. But certain limitations placed on those accounts never allowed patients to fully realize the promise of MSAs.

Today, I urge my colleagues to make those accounts permanent and repeal the limitations put on them by supporting this amendment, this pro-consumer amendment. This amendment allows any size company to offer MSAs and also allows individuals to purchase MSAs, giving more people the power to choose the health care professionals, services and products that best meet their needs as individuals. It allows MSAs provided under cafeteria plans that will greatly expand the number of consumers that can be reached by MSAs and treat MSAs like other health care plans.

Many insurers have been reluctant to offer medical savings accounts because the cap limits the size of the market in which MSAs can be offered. We would repeal that cap. That is fundamentally pro-consumer legislation.

Mr. STARK. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), a former insurance commissioner of that fine State.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding time.

Back home we say you can take a pig, put lipstick on it, smell it and call it Monique, but it is still a pig. AHPs, association health plans, contained in this bill are a new iteration of what has been tried in the past and failed in the past to the disadvantage of small employers and their employees. Multiple employer trusts in the early 1960s, giving way to multiple employer welfare arrangements in the late 1960s.

What these were were efforts to have unregulated insurance pools across small employers managed by associations. The net result of this regulation, no adequate oversight in terms of capitalization of these programs; and while the premiums were cheap, when the claims came in, the companies were not there. It is not just a matter of having a policy for purposes of having access to coverage. You want to make sure you actually have a solvent entity to pay the claim when you send in the bill. That is the problem about deregulating these association health plans. We have learned this lesson once. We have learned this lesson twice. Why, oh why, oh why on a bill that we are trying to increase consumer protections would the majority ask us to learn it yet a third time to the disadvantage again of small and the people covered in those programs?

There is another adverse feature to association health plans and that is that it busts up the risk pool. The way health insurance works is you get a whole lot of folks, healthy ones, medium healthy ones, sick ones, you put all their risks together and then you have a mechanism that can pay claims on those who incur medical services. This would segment out by attracting disproportionately healthy groups and least likely to incur medical services. Everybody else would be in groups that are aging, groups whose health experience was deteriorating, and the premiums would be skyrocketing.

Do not take my word for it, because the Congressional Budget Office has evaluated this, and the Congressional Budget Office said if AHPs were enacted, four in five workers in small firms, 20 million Americans, would actually receive a rate increase. Only 4.6 million would receive a rate decrease. Why would you have rates go up by a feature of favorable in order to advance Association Health Plans? It is a bad idea. It is not consumer protection, it is consumer harm. Reject that amendment.

Mr. JOHNSON of Texas. Mr. Chairman, our opinion is that those health plans give people insurance, and they do lower the cost.

Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. Johnson), a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I just would like to point out to my colleagues that in this bill there are solvency standards and a number of reforms that were not in there a number of years ago. What is exciting about the Association Health Plan option is it provides to small businesses the opportunity to offer health insurance plans under State mandates, which is exactly what the large employers have done. My constituents tell me that if they could organize their small business plans under the ERISA law, they could lower premiums 10 percent.

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

The CHAIRMAN. The gentleman from California is recognized for 30 seconds.

Mr. STARK. Mr. Chairman, the gentleman from North Dakota (Mr. POMEROY) asked, “Why would anybody do this?” I would answer that the one need just to look at Golden Rule Financial’s contribution to find the answer. 1997 to 1998, $314,000 to the Republicans, and not a penny to the Democrats. Under this amendment, Golden Rule Insurance Company, the main company that benefits from MSAs, will get $5 billion over the next 10 years.

You guys are selling out too cheap to these lobbyists. You have taken their $300,000 and given them a bill worth 5 billion. That is what the Republicans are doing in this bill. They have sold out to the special interests; they have sold out to the insurance companies. Shame on you.

Mr. SAM JOHNSON of Texas. Shame on the trial lawyers who are trying to win millions of dollars on your bill.

Mr. Chairman, I yield 1 minute to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentleman for yielding me time.

Let me say, Mr. Chairman, that we need strong patient protection legislation. We have before us a bill that will do that, will provide access to emergency room, access to clinical trials, direct access for women to OB-Gyn and access to the courts for wrongful treatment.

But this amendment does something more. This amendment improves this legislation by expanding access to health care. There are 86,000 people in my State of South Dakota who do not have health care. Medical savings accounts and association health plans are a means by which our small businesses can make health care more affordable and more accessible to more people.

This is a good amendment, Mr. Chairman, we need strong patient protection legislation. We have before us a bill that will do that, will provide access to emergency room, access to clinical trials, direct access for women to OB-Gyn and access to the courts for wrongful treatment.

Let us enact the Thomas-Lipinski-Fletcher amendment and give more
people more access to health care that is affordable by increasing and expanding MSAs and association health plans.

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

Mr. Chairman, this amendment is very much in keeping in theme with the message today from the majority, which is illustrations. The Norwood amendment creates the illusion of holding HMOs accountable for their misconduct, and therefore more employers are going to buy health insurance and more individuals are going to be covered. That just does not square with the objective analyses that have been done on the AHP concept. One of them was done by the Congressional Budget Office, whose researchers concluded that AHPs would not reduce overall health insurance costs. The CBO found that four in five workers would see their health insurance costs increase under this amendment, under AHP legislation, because of disruption in health insurance markets. So the illusion that premiums would go down is not the fact.

The second problem with AHPs is that it really is a race for the bottom. It preempts and therefore repeals the consumer protection legislation adopted by States all across the country, legislation that requires a minimum length of stay after a C-section for a woman who has given birth, legislation that requires a minimum length of stay after a radical mastectomy. All of these consumer protections are repealed when the AHPs go in.

Mr. ANDREWS. Mr. Chairman, would the gentleman please explain to me why MSA expansion is in your bill, and why the patient protections in that bill will not protect those patients in MSAs?

Mr. ANDREWS. Mr. Chairman, re-

claiming my time, because it was nec-

essary to build a majority coalition to

pass the bill, which we would have done and would have brought it to the floor when it was originally promised.

Mr. Chairman, the problem with this amendment is it suffers the illusion, the continuing illusion, that we are going to cover more people. You want to cover more people? Put more money in the S-chip program. Repeal just a little piece of the tax cut that passed a couple of months ago and put more money into the program that has enrolled millions of children, and could enroll their parents, if we extended that. That is the way to enroll more people in health insurance.

You want to enroll more people in health insurance? Let seniors 55 and over buy into Medicare at their own expense. You want to cover more people by health insurance? Expand Medicaid reimbursement to the States. That is the way to do it; not this fraud, not this illusion that is before us today.

Mr. Chairman, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, MSAs are important for more than half of the 43 million small business owners, their employees and their families, and in spite of what you say, the truth is that working-class people do use MSAs, and I am going to quote you.

"All three of us are working middle-
class mothers, two of us are single moms, and we all have medical savings accounts that provide health insurance for our families. Our message to people in Washington is plain, unmistakable English that MSAs work."

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I wonder if the gentleman could tell us the source of the quote he just read?

Mr. ANDREWS. Mr. Chairman, reclaiming my time, I will get it to the gentleman. I will tell him what he tells me: I will send it to you in writing.

Mr. Chairman, let me say that it is unfortunate that the base bill we are considering does just the opposite of providing insurance for our people. We believe that creating association health plans and expanding medical savings accounts guarantees the access to health care we need. Working together, it helps employees and employers lower the cost of health insurance and gets the benefits they may not have had.

Increasing access to Medical Savings Accounts would help those people who are going to care for the uninsured. This amendment is good for America and the 43 million Americans who do not have health insurance.

Do what is right. Vote for this amendment.

Mr. Chairman, I yield the rest of my time to the gentleman from Kentucky (Mr. FLETCHER) and ask unanimous consent that he be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman just yielded.

Mr. Chairman, it is ironic that the gentleman from California (Chairman THOMAS) calls this amendment the access to the request of the gentleman from California (Chairman THOMAS) calls this amendment the access.
this amendment has nothing to do with access; it has everything to do with helping a few individuals in a few businesses at the expense of the rest of us. It has everything to do with campaign contributions, as the gentleman from California (Mr. STARK) pointed out earlier.

Association health plans and MSAs make health insurance less expensive for a few healthy individuals and a few employers, while costs rise for every other individual and every other employer. Association health plans skim low-risk businesses from the rest of the insurance pool. Every other bill carries a larger burden when more risk is spread over fewer groups.

Medical savings accounts, they can be a great deal when you are 100 percent healthy. When you are sick, they turn into an expensive disappointment. The Congressional Research Service estimates that commercial insurance premiums will increase 2 percent or more if association plans are permitted.

Iris Lav and Emmett Keeler, two highly respected health services researchers, say that premiums for conventional insurance could more than double if MSA use becomes widespread. Last night at midnight, the gentleman from California (Chairman THOMAS) sold this House a bill of goods, $27 billion in tax giveaways to the Nation’s oil companies. I ask my colleagues, do not buy it again. A real patients’ bill of rights is not going to blow the top off insurance premiums, but association health plans and medical savings accounts, sweetheart deals for the fortunate few, certainly will.

I urge Members to vote against the ill-conceived Thomas amendment.

Mr. FLETCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHRER), Chairman of the Committee on Education and the Workforce.

Mr. BOEHRER. Mr. Chairman, let me once again congratulate my colleague, the gentleman from Kentucky (Mr. FLETCHER), for his tremendous job in helping to move this entire process along this year. He has spent weeks and months, I might add, trying to build consensus for how do we break the gridlock and how do we move a real patients’ bill of rights.

Now, my colleague, who was just here opposing association health plans and medical saving accounts, it should not surprise any of us, because he is one of the larger promoters of a single payer national health care system. My goodness, if we get people insured by private insurance, which is what most people want, there will not be any need for a single payer system.

In 1992, when this issue of health care began to be a big issue in America, we were told association health plans skim Americans who had no health insurance. We remember the 1992 presidential campaign. We remember 1993, when we had this big effort of having a national health insurance plan, a card for every American. Then Americans stood up and said no, please, we do not want that. Our own health insurance is very good.

Then, over the last 6 years, all we have done is talk about patients’ rights, and while they are important and we need to deal with them, let us admit that the far bigger problem in America today are the 43 million Americans who have no health insurance at all. All these patient protections, all the consumer protections my colleague just talked about mean absolutely nothing to those Americans who have no health insurance.

What we want to do under this amendment is make it easier for small businesses to offer health insurance for their employees, because 80 percent of those 43 million Americans have jobs, they have full-time jobs, and they work for small employers. They do not have the ability to create large pools. But by allowing them to work in an association, whether it be the NFIB, whether it be the Association of American Florists, and create larger pools, they will get a chance to have a better opportunity at getting health insurance. And why should we not help them?

Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLEY), who has co-sponsored the Small Business Fairness Act, which is the bill on association health plans.

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the association health plan proposal before us.

The number one problem in health care facing Americans is not their problems with their managed care organization; the number one problem facing Americans today is the fact that we have 43 million of our citizens who are uninsured.

I represent a district in the Central Valley of California, where the lowest income area one that has a lot of families that are farm workers. It is predominantly Latino in its makeup. Association health plans hold the promise of allowing associations to come together to offer these families and the children of these farm worker families a health insurance policy that otherwise would not be available to them.

Mr. Chairman, we have to come to understand what we are trying to do here is to provide a mechanism for farmers and small business people to come together, to come together so that they can offer a plan that is similar to what Boeing, Microsoft and GM are offering to their employees. This amendmend holds the promise of ensuring that some of those 43 million people, some of whom are living in my district, some of whom have the lowest incomes, will have access to a quality health insurance plan that otherwise they would be denied.

Mr. FLETCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMLEY), our majority leader.

Mr. ARMLEY. Mr. Chairman, I thank the gentlelman for yielding me this time.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. FLETCHER) for offering this amendment. I would also like to thank the gentlelman from Illinois (Mr. HASTERT), the Speaker of the House; the gentlelman from California (Mr. THOMAS); the gentlelman from Illinois (Mr. LIPSKI); the gentlelman from Connecticut (Mrs. JOHNSON); and the gentlelman from Georgia (Mr. NORWOOD) for their leadership and their continuing strong commitments to the Archer Medical Savings Accounts.

Mr. Chairman, patients need more than a bill of rights, they need a declaration of independence. Millions of American families today find themselves trapped in HMOs that they did not choose and do not like. This amendment offers a jail-free card. It offers them hope, gives them options that help them find peace of mind and more control over their health care treatments. It begins to address the basic unfairness in the Tax Code that created the HMO trap in the first place.

There are too many people in this debate, Mr. Chairman, I believe, who have nothing to say except patients should have a right to sue their HMO. But I submit that patients should have a right to fire their HMO.

Mr. Chairman, this is America. We should have the freedom to take our business wherever we choose. Unfortunately, today’s Tax Code denies that freedom to millions of American families, especially the poor and minorities and especially Hispanics.

If we really care about the uninsured, if we really care about the waitresses, the house painters, the field workers and others at out of affordable health care today, then we must make the taxation of health benefits fair for everyone, regardless of where they work or how much they make. By making Archer Medical Savings Accounts available to everyone, this amendment starts us down the road towards basic tax fairness.

Medical savings accounts can be a godsend for the uninsured. According to the IRS, one-third of the MSAs sold under the current pilot project have been purchased by folks who have otherwise been uninsured for at least the previous 6 months. Imagine how many uninsured people we could help if MSAs were given a fair shot in the marketplace, as this amendment would do.

Mr. Chairman, this is an amendment with a heart. It would be heartless to defeat it.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consider.

Under the budget rules of the House of Representatives, when someone brings a bill to the floor that would reduce revenue flow of the Treasury, they
Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of this important amendment, which I have cosponsored. While we are discussing the Patients’ Bill of Rights, it is important to remember that one of the major problems facing our great Nation today is the problem of the uninsured.

As a member of the Committee on Small Business, I know the positive effect that association health plans and medical savings plans can have on employees and employers of small businesses across the Nation. Of the 43 million uninsured in America, 60 percent of those either own or work in small business.

Small business employers need the opportunity to offer their employees a comprehensive and reasonably low cost health insurance package at a reasonable cost. Association health plans allow small businesses to join together across State lines to obtain the accessibility, affordability and choice in the health care marketplace now available to employees in large companies and organized labor unions.

Medical savings accounts are extremely beneficial because they actually allow individuals to be in control of their own health care, allowing them to decide where and how money is to be spent. More than one-third of the people who currently participate in MSAs were previously uninsured. It only makes sense to provide greater access to the uninsured, and AHPs and MSAs help do this.

Mr. FLETCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. MANZULLO), chairman of the Committee on Small Business.

Mr. MANZULLO asked and was given permission to revise and extend remarks.

Mr. MANZULLO. Mr. Chairman, as chairman of the Committee on Small Business, I receive thousands of letters from small employers, many from northern Illinois, who are struggling with surging health care premiums. Especially for a business with fewer than 50 employees, a 14 percent increase and had to change to $1,000 deductibles. Now the costs are going up 21 percent again. I truthfully do not know how to handle this latest increase,” said Linda, who provides health care coverage to four employees.

This is not a unique problem in my district. Access to healthcare is a problem for our small entrepreneurs face each year they decide to pay escalating premiums for dropping coverage of their employees. Large health plans may spread the increased costs over their large applicant pools without much of a change in enrollment. A large business or union health plan enrollee might spend slightly more on healthcare, but it will probably not push them out of the health care system.

When the small entrepreneur and his or her employees, however, struggle with radical increases in health care premiums. Especially for a business with fewer than 50 employees, its health care premiums skyrocket when a member of the small enrollment becomes ill or injured. When the husband of a Chrysler employee goes to an emergency room, the Chrysler health insurance plan easily spreads the cost, but for a small auto mechanic, the cost of his employee’s trip to the emergency room forces a small group of workers to shoulder a significant burden.

Fortunately, today, we have an opportunity to protect workers’ rights and improve the quality of health care. This amendment allows small employers the ability to bring down health insurance costs for themselves and their employees by joining association health plans, similar to the way labor unions pool their members to reduce premiums for their insurance. We cannot possibly believe we are protecting patients if more small entrepreneurs stop paying for coverage.

Mr. Chairman, I encourage the adoption of this amendment.

As Chairman of the Committee on Small Business, I am troubled by the fact that of the 43 million Americans with no health insurance, more than 60 percent are the families of small entrepreneurs and their employees.

I have received thousands of letters from small employers—from the northern Illinois district I represent—who are struggling with surging health care costs for their employees.

Geoff Brook is one of my constituents who offers health care coverage to his employees at Energy Dynamics, Inc. in Machesney Park, Illinois. The last three years especially, premium increases have skyrocketed and Geoff has reluctantly been forced to cancel coverage for the families of his employees and raise deductibles for his employees themselves. He recently received a notice from his insurance company that his employees’ premiums were going to increase another 34 percent for the coming year. As the owner of a 20-year-old small business with 18 employees, I can tell you that employee health insurance is already at the point where any further rate increases will cause us to discontinue coverage for our enrollees.”

Mark O’Donnell is another of my constituents who employs 35 people at Kenwood Electrical Systems, Inc. in Rockford, Illinois. Mark writes, “Our health insurance costs were raised 43 percent last year and 34 percent this year and there is nothing we can do about it. We have a real problem here.”

And Linda Taylor, who owns Taylor Auto Parts with her husband, Larry, in Woodstock, Illinois, writes, “Health care costs and insurance are draining us. Last year, we had a 14 percent increase and had to change to $1,000 deductibles. Now the costs are going up 21 percent again. I truthfully do not know how to handle this latest increase,” said Linda, who provides health care coverage to four employees.

As a member of the Committee on Ways and Means, I can assure the gentleman indicated, because as the gentleman well notes, the medical malpractice amendment that will be up after we pass the Norwood amendment is scored by the appropriate scoring agencies as saving almost $2 billion.

Mr. ANDREWS. Mr. Chairman, re-claiming my time, I, raising taxes, the other $3 billion might come from, the other $3 billion.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentle- man from California.

Mr. THOMAS. Mr. Chairman, we have a number of other measures that we will move along. As chairman of the Committee on Ways and Means, I can assure the gentleman that $3 billion over 10 years is not that large an amount of money to find, and as chairman of the Committee on Ways and Means, I pledge to the gentleman, we will find it.

If that is the gentleman’s concern about not supporting the amendment, I hope he now supports it.

Mr. ANDREWS. Mr. Chairman, will the gentleman from California (Mr. Thomas) do it by raising other revenues by $3 billion, by raising taxes? Are the other $3 billion might come from, the other $3 billion.

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Mr. THOMAS. Mr. Chairman, we have a number of other measures that we will move along. As chairman of the Committee on Ways and Means, I can assure the gentleman that $3 billion over 10 years is not that large an amount of money to find, and as chairman of the Committee on Ways and Means, I pledge to the gentleman, we will find it.

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If that is the gentleman’s concern about not supporting the amendment, I hope he now supports it.
AHPs empower small business owners, who currently cannot afford to offer health insurance to their employees, to access health insurance through trade and professional associations and Chambers of Commerce. In other words, AHPs allow national trade and professional associations, such as the National Federation of Independent Business, the National Restaurant Association or the U.S. Chamber of Commerce, to sponsor health care plans. The small business owners who are members of the associations can buy into these plans for themselves and their employees.

AHPs give small businesses and the self-employed the freedom to design more affordable benefit options and offer their workers access to health care coverage. These new coverage options promote greater competition, lower costs and new choices in health insurance. By allowing individuals and small employers to join together, AHPs promote the same economies of scale and purchasing clout that workers in large companies currently realize.

Expansion of Medical Savings Accounts (MSAs) will make insurance more affordable for businesses with qualifying high deductible plans. Expansion of MSAs will encourage more individuals to place tax-deductible funds into savings accounts for use in routine medical care while still allowing a wide choice among insurance companies.

Initially created by Health Insurance Portability and Accountability Act of 1996, MSAs have not been fully utilized by their target sector. However, enacting simple reforms and expansions will allow more small businesses to cut down on their healthcare costs. These provisions include repealing limits on the number of MSAs, making active accounts generally available to anyone with qualifying high deductible insurance, allowing contributions up to the amount of the insurance deductible, allowing contributions to be made both by employers and account owners, lowering minimum insurance deductibles for single and family coverage, allowing use under cafeteria plans, and allowing plans not to have a deductible for preventive care, even if this is not required by state law.

AHP and MSA legislation will not directly offset the increased costs of healthcare when a Patients’ Bill of Rights is enacted. However, small businesses are the sector most likely to cease offering insurance because of increase costs, and AHP and MSA legislation will allow these workers to access and afford quality healthcare.

We cannot possibly believe we are protecting patients if more small entrepreneurs stop paying for coverage—which will happen with rising premiums. Association Health Plan and Medical Savings Account provision are the only responsible way to protect patients.

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

Mr. Chairman, the record shows that this amendment will not substantially increase coverage. The association health plans will not substantially reduce premiums; therefore, more employers will not be enticed to buy in. MSAs are not going to work for low- and modest-income people who do not have money to put into the MSAs.

This is an illusion, much like the Norwood amendment that we are going to debate next. I urge the defeat of the amendment.

Mr. CHAIRMAN. I yield back the balance of my time.

Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, the gentleman on the other side cannot hide the truth. Associated health care plans, if you have a union or large business that has maybe 3,000 or 4,000 employees, they can go to a health care organization and negotiate lower rates because it spreads out the risk.

We are asking that maybe all the bakers get together, all the barbers get together, little groups that can form into larger groups so that they can negotiate and can come with lower rates. If we have lower rates, we are going to have more people access into them, so the gentleman is just flat wrong.

Another gentleman talked about taxes. The gentleman from Missouri (Mr. GEPhardt) just last week said he wants to raise taxes. In 1993, he was proud of it. They raised taxes on the middle class. We want to give it back to the American people for medical services, health care, and campaign finance-fund-raisers with Jane Fonda.

Mr. FLETCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE asked and was given permission to revise and extend his remarks.

Mr. PENCE. Mr. Chairman, I rise in strong support of the amendment and of Indiana’s small business owners. For too long they have lacked access to affordable health care options to offer their employees.

The answer, Mr. Chairman, is fairness. Large corporations and labor unions can offer health insurance across State lines under a single uniform code and reap all of the benefits of the economies of scale. Congress today in this amendment must level the playing field for small business.

Let us grant small businesses the same rights as Fortune 500 companies. Association Health Plans are the answer, and I urge my colleagues to support this amendment.

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

Mr. Chairman, as we look at the problem facing America and health care, the most daunting problem we have are the 43 million that are uninsured. The majority of those uninsured are working individuals. The majority of those working individuals are in small businesses. That we do with association health plans is allow those small businesses to come together, to insure themselves across the Nation.

Mr. Chairman, this last year when I was going across my district, I talked to farmers that were paying on the individual market for their family up to $800 and 900 a month. That was unaffordable for them. Now, imagine if the American Farm Bureau Federation provided a plan and pool across the Nation and offer that individual farmer a policy for his family that was 30 percent, maybe more than that, reduced from what he is paying now; what impact would that have on the farmers across this country?

Mr. Chairman, the record shows that the original 1974 exemption was working. Congress had to pass a law several years later returning regulatory authority to the States. Let’s not make the same mistake twice.
The CHAIRMAN. The amendment is as follows:

Amendment No. 2 offered by Mr. NORWOOD. Mr. Chairman, I offer an amendment.

Mr. Speaker, I demand a recorded vote.

The question was taken; and the Ayes prevailed, as follows:

A recorded vote was ordered.
The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of clauses (i) and (ii) shall be determined by an actuary using sound actuarial practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary determines to maintain throughout the term for which the designation is in effect. The provisions of this subparagraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

(3) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who has been directed to provide services which is the subject of a cause of action shall not be appointed as a designated decisionmaker under this paragraph respect to such participant or beneficiary, and

(iii) where subparagraph (C)(ii) applies, assumes unconditionally the exclusive authority under the group health plan to make determinations on claims for benefits (irrespective of whether they constitute medically reviewable determinations) under the plan with respect to such participant or beneficiary, and

(B) TREATMENT OF CERTAIN TRUST FUND.—For purposes of this subsection, the terms ‘employer’ and ‘plan sponsor’, in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

(3) LIMITATION ON RECOVERY OF DAMAGES.—(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic losses is determined in an action under paragraph (1) may not exceed $1,500,000. (B) LIMITATION ON AWARD OF PUNITIVE DAMAGES.—In the case of any action commenced under section 503A, 503B, or 503C in such case, or that are made in such case while an action under section 503B or 503C (as required under similar damages against a defendant, except that a court may not award any punitive, exemplary, or similar damages in addition to damages described in subparagraph (A)), in an aggregate amount not to exceed $1,500,000, if

(i) the denial of a claim for benefits involved in the case was reversed by a written determination by an independent medical reviewer under section 503(a)(4) by the group health plan, a person engaged in delivering or providing treatment or provided services which is the subject of a cause of action by a participant or beneficiary under paragraph (1) may not be appointed (or deemed to be appointed) as a designated decisionmaker under this paragraph respect to such participant or beneficiary, and

(ii) a final determination denying a claim for benefits under section 503B has been referred for independent medical review under section 503C(c)(3) than a referral to an independent medical reviewer is not required.

(ii) IN GENERAL.—Subject to clause (ii), an entity is qualified under this subparagraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (A) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary upon designation under this paragraph and is not frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

(ii) evidence of minimum capital and surplus levels that are maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this subsection; or

(4) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—(A) IN GENERAL.—Paragraph (1) shall apply only if

(1) the qualified external review entity has determined that the benefits or services are not covered under section 503C(c)(3) than a referral to an independent medical reviewer is not required.

(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 5 years after the date on which the action is described in such paragraph occurred or, if earlier, not later than 2 years after the first date the participant or beneficiary became aware of the personal injury or death referred to in such paragraph.

(6) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503(b) or 503(c)(4) relating to such denial of a claim for benefits under this Act or title I of the Bipartisan Patient Protection Act shall be made in a written determination by an independent medical reviewer under section 503(b) or 503(c)(4) relating to such denial of a claim for benefits under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not

with respect to any participant or beneficiary if—

(1) such designation is in such form as may be specified in regulations prescribed by the Secretary of the Treasury in accordance with provisions of clauses (i) and (ii) shall be determined by an actuary using sound actuarial practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary determines to maintain throughout the term for which the designation is in effect. The provisions of this subparagraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

(2) meets the requirements of subparagraph (C),

(1) IN GENERAL.—Subject to clause (ii), an entity is qualified under this subparagraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (A) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary upon designation under this paragraph and is not frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

(2) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—(A) IN GENERAL.—Subject to clause (ii), an entity is qualified under this subparagraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (A) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary upon designation under this paragraph and is not frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

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(1) the qualified external review entity has determined that the benefits or services are not covered under section 503C(c)(3) than a referral to an independent medical reviewer is not required.

(2) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—An entity that provides services which is the subject of a cause of action by a participant or beneficiary may seek relief under subsection (a)(1)(B) prior to the exhaustion of administrative remedies under section 503B or 503C (as required under supervising the provision of it shall be given due consideration by the court in any action under subsection (a)(1)(B) in such case. Notwithstanding the awarding of initial or further review pursuant to this subparagraph, no relief shall be available under paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

(3) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the distribution of enrollment information under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not
include making determinations on claims for benefits.

(‘C’) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recovery by a person on behalf of any group of 2 or more claimants. A recordkeeper fails to follow the specific instructions of the plan or the employer or other plan sponsor.

(9) COORDINATION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A cause of action that is based on or otherwise relates to a group health plan, or generates a claim or coverage, that is specifically excluded under the plan must be maintained exclusively under this section. Nothing in this paragraph shall be construed to alter, amend, modify, invalidate, impair, or supersede section 514.

(10) COORDINATION WITH FIDUCIARY REQUIREMENTS.—A fiduciary shall not be treated as failing to meet any requirement of paragraph 4 solely by reason of any action taken by a fiduciary in the discharge of fiduciary duties and responsibilities with the reversal under section 503(c) (relating to independent external appeals procedures for group health plans) of a denial of a claim for benefits (within the meaning of section 503(c)(1)(2)).

(11) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage.

(12) LIMITATION ON CLASS ACTION LITIGATION.—(A) A claim or cause of action under this subsection may not be maintained as a class action unless the district court, on motion on behalf of any group of 2 or more claimants.

(13) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

(14) RETROSPECTIVE CLAIMS FOR BENEFITS.—Nothing in this subsection shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

(15) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is

(a) a member of a board of directors of an employer or plan sponsor; or

(b) a member of an association, committee, employee organization, joint board of trustees, or the similar group representing the interests of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employer organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

(16) DEFINITIONS AND RELATED RULES.—For purposes of this subsection:

(A) CLAIMS FOR BENEFITS.—The term ‘claim for benefits’ shall have the meaning given such term in section 502(a).

(B) GROUP HEALTH PLAN.—The term ‘group health plan’ shall have the meaning given such term in section 733(a).

(C) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ shall have the meaning given such term in section 733(b)(1).

(D) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning given such term in section 733(b)(2).

(E) ORDINARY CARE.—The term ‘ordinary care’ means, with respect to a determination on a claim for benefits, that degree of care, skill, or treatment that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

(F) Personal injury means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

(G) TREATMENT OF EXCEPTED BENEFITS.—The provisions of this subsection (and subsection (a)(1)(C)) shall not apply to excepted benefits (as defined in section 733(c)) other than benefits described in section 733(c)(2)(A), in the same manner as the provisions of part 7 do not apply to such benefits under subsection (a)(1)(C) of section 732.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ‘or’ at the end of subparagraph (A);

(B) in subparagraph (B), by striking ‘and’ and inserting ‘or’;

and

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

(C) for the relief provided for in subsection (n) of this section.

(b) AVAILABILITY OF ACTIONS IN STATE COURT.—

(1) JURISDICTION OF STATE COURTS.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)) is amended—

(A) in the first sentence, by striking ‘paragraphs (1)(B), (1)(C), and (7) of subsection (a);’

(B) in the second sentence, by striking ‘paragraphs (1)(B) and (7)’ and inserting ‘paragraphs (1)(B), (1)(C), and (7)’; and

(C) by adding at the end the following new sentence: ‘State courts of competent jurisdiction in the State in which the plaintiff resides and district courts of the United States shall have concurrent jurisdiction over actions under subsections (a)(1)(C) and (n).’

(2) LIMITATION ON REMOVABILITY OF CERTAIN ACTIONS IN STATE COURT.—Section 1445 of title 28, United States Code, is amended—

(a) in paragraph (1), by striking ‘or’ and inserting ‘and’;

(b) in paragraph (3) and (4), by striking ‘and’ and inserting ‘or’;

and

(c) in paragraph (5), by striking ‘(B),’ and (C)’ and inserting ‘(B), or (C),’

and

(3) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to actions commenced on or after August 2, 2001. Notwithstanding the preceding sentence, with respect to class actions, the amendment made by subsection (a) shall apply with respect to civil actions which are pending on such date in which a class action has not been certified as of such date.

Amend section 603 to read as follows:

SEC. 603. SEVERABILITY.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), if any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, section 502(a)(1) of such Act, as amended by this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(b) DEFERENCE OF REMEDIES ON APPEALS.—If any provision of section 502(a) of the Employee Retirement Income Security Act of 1974 (as inserted by section 131) or the application of such section to any person or circumstance is held to be unconstitutional, section 502(a)(1) of such Act, as amended by this Act, shall be deemed to be null and void and shall be given no force or effect.

(c) REMEDIES.—If any provision of section 502(a) of the Employee Retirement Income Security Act of 1974 (as inserted by section 402), or the application of such section to any person or circumstance, is held to be unconstitutional, the remainder of such section shall be deemed to be null and void and shall be given no force or effect.

Page 18, line 10, strike ‘on a timely basis’ and insert ‘in accordance with the applicable deadlines established under this section and section 503B.

Page 29, line 14, strike ‘or modify’.

Page 36, line 12, strike ‘upheld, reversed, or modified’ and insert ‘upheld or reversed’.

Page 39, line 23, strike ‘upheld, reverse, or modify’ and insert ‘upheld or reversed’.

Page 42, line 2, strike ‘reviewer (or reviewers)’ and insert ‘review panel’.

Page 35, line 7, strike ‘reviewer’ and insert ‘review panel’.

Page 34, line 25, strike ‘reviewer’ and insert ‘review panel composed of 3 independent medical reviewers’.

Page 34, lines 8 and 13; page 36, line 8; page 37, line 3; page 38, lines 6 and 20; page 39, line 8.
the Employee Retirement Income Security Act of 1974 (with respect to enrollees under individual health insurance coverage in the same manner as they apply to participants and beneficiaries under group health insurance coverage)"

Page 152, line 16, insert "section 101 and subsections before ‘‘title I’’.

Page 155, strike lines 1 through 19 (and redesignate the subsequent paragraphs accordingly.

Page 158, strike lines 19 through 25 and insert the following:

(b)(1)(A) Subject to subparagraphs (B) and (C), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of sections 503A, 503B, and 503C, and such requirements shall be deemed to be incorporated into this subsection.

(b) With respect to the internal appeals process required to be established under section 503B, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system, or for the conduct of external appeal activities in accordance with section 503C, the plan shall be treated as meeting the requirements of subsection and is not liable for the entity’s failure to meet any requirements under such section.

(2) In the case of a group health plan, compliance with regulations promulgated by the Secretary, in connection with a denial of a claim under a group health plan shall be deemed compliance with subsection (a) with respect to such claim denial.

(3) Terms used in this subsection which are defined in section 733 shall have the meanings provided such terms in such section.

Page 210, line 19, after “Act” insert the following: “and sections 503A through 503C of the Employee Retirement Income Security Act of 1974.”

Make such additional technical and conforming changes to the text of the bill as are necessary to do the following:

(1) Replace sections 102, 103, and 104 of the bill with references to sections 503A, 503B, and 503C of the Employee Retirement Income Security Act of 1974, as amended by the bill.

(2) In sections 102, 103, and 104, strike any reference to “enrollee” or “enrollees” and insert “in connection with a group health plan after ‘health insurance coverage’” and make necessary conforming grammatical changes.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 30 minutes.

Mr. ANDREWS. Mr. Chairman, I claim the time in opposition to the amendment.

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may con

Mr. Chairman, I rise today to bring before the House an effort at bridging the gap on this very difficult and contentious issue. I realize that my decision to bring forth this amendment is a controversial one, but I hope my colleagues will see this as an hour their bitterness and consider the substance of our proposal.

I have heard some of my colleagues come to the floor to say that my amendment was written by the insurance industry. It is just silly, I think, to suggest that. The insurance industry cannot stand me. They have had me on dart boards for years, and everyone in the House knows that. So let us set aside those insane accusations. Instead, Mr. Chairman, let us talk about the substance of the amendment.

My amendment is consistent with the principles of the underlying bill. My amendment creates a cause of action for a negligent denial of a claim for benefits. This cause of action against insurers will be heard in State court. So does the underlying bill.

The amendment protects employers by allowing them to have a designated decisionmaker to be liable. So does the underlying bill.

There are, however, some significant differences. My amendment caps liability at $1.5 million for noneconomic damages. Punitive damages are capped at $1.5 million. I argued long and hard with almost every friend I have against putting caps in a bill for 4 years because we had a President who said he would veto a patient protections bill with caps. Now we have a President who says he will veto a bill without caps.

This compromise is a simple recognition of political reality. I have made a compromise to create a rebuttal presumption in favor of the insurer when the external reviewers rule in favor of the plan.

I have listened to my colleagues complain long and loud about the inequity of that, but I have one simple question in response: If the external reviewer says the plan was right in turning down a treatment, how could the plan have been negligent in turning down a treatment?

I know some of my colleagues feel I have made a significant change moving away from the simple lifting of the ERISA preemption, but before Members condemn differences because they are changes, think about what has really changed. Under the amendment, a patient will have a cause of action against an insurer in every State in America, in a State court using State
rules and procedures. Is that significantly different from the underlying bill?

I know some of my colleagues believe that the language of my amendment preempts the direction of current case law. We worked deep into the night last night on that language. I am not completely satisfied with the provision in our bill that protects State law, and I pledge to Members to work to further clarify the language in conference because I know Members know my intent.

But before Members offhandedly reject the language, I think they should explain to us how Americans will be left without a remedy under this amendment.

Mr. Chairman, the key difference between the amendment I am bringing before Members today and the underlying bill is that the President has agreed to sign the bill with the amendment I am bringing today. With all due respect to the gentleman from Kentucky, the amendment I bring today is a significant departure from the Norwood amendment. I real-

ly would not blame Members if they voted against the amendment, our Democratic friends, solely because of the process issue. But before slapping away the hand that is being extended to us, I hope, will consider the substance and realize how close we truly are to a law, not a bill. We have done that, folks. But a law.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. TURNER), a Member who understands the flaws of writing a complicated bill overnight.

Mr. TURNER. Mr. Chairman, we have heard a lot today from the other side about the need for balance between giving patients protections and holding down the cost of health insurance premiums.

In Texas, we have had 4 years of experience under our patient protection laws. Health insurance premiums in Texas have gone up at less than half the national average. 1,400 patients have exercised their right to appeal, and only 17 lawsuits have occurred.

The original Ganske-Dingell-Norwood bill has added language to cover some of these same issues, such as including the dedicated decision-maker language, requiring the full exhaustion of internal and external reviews before going to court, keeping contract disputes in Federal courts and making adjustments to MSAs.

The patients' rights issue has come a long way since 1992 when we first started on this. Last night we continued that progress with the gentleman from Georgia (Mr. NORWOOD) helping to put together a compromise that we could actually pass into law. Last night, to the credit of the gentleman from Georgia (Mr. NORWOOD) and President Bush, each gave a little to get a little, and the product of that compromise is what we have before us today.

But are we grateful for this compromise? Are we praising everyone for having reached an agreement that is essentially the majority of the base bill itself? No. Instead, now, we have shifted the argument to other issues, like exemption of State law.

As I understand it, the Ganske-Dingell bill develops a State cause of action in that it modifies it with things
such as a dedicated decision-maker and other things which are a preemption of State law, as far as I can see. That leaves us with the question of whether or not, if we are doing that, it is constitutional.

Can we strike Federal conditions on a State cause of action, and is this not preemption of State law? The Norwood amendment has created a Federal cause of action modified in the same ways. I think it is more workable, and I think clearly it will withstand the test of independent review.

With regard to the liability provisos, as a result of the negotiation with the President, the Norwood amendment increased the caps on damages to $1.5 million from the $500,000 that was advocated in the Fletcher-Peterson bill.

The Norwood amendment will protect small businesses and mitigate against possible increases of uninsured, as well as improving health care delivery. It finally turns congressmen H.R. 2563 to a place of agreement, a place where the Patients’ Bill of Rights can pass the House; and if the other body is willing to work with us in good faith, we can ultimately get the President’s signature and put this legislation into law.

Mr. Chairman, I encourage each and every one of my colleagues to support a real solution to the issue of patients’ rights. Support the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), one of the two principal authors of this bill.

Mr. WAXMAN. Mr. Chairman, I am sorry to say it is hard to escape the conclusion that last night President Bush finally put so much pressure on the gentleman from Georgia (Mr. Norwood) that in the words of the New York Times editorial today he, quote, “apparently sold out his own cause.” That is sad for Americans who need and deserve a strong and enforceable Patients’ Bill of Rights.

Mr. Chairman, I just want to review what the American Medical Association concluded about the deal agreed to by the former Majority Leader: It overturns the good work done by States in protecting patients; it reverses developing case laws that allow patients to hold plans accountable when they play doctor. In other words, it makes things worse instead of better for patients. It provides patient protections, but does not allow enforcement of those rights.

If the White House operatives thought they could defend the so-called “compromise” President Bush talked the gentleman from Georgia (Mr. Norwood) into, why did they insist that he make a commitment without talking it over with his allies in and out of the government? Why did they insist that drafting be rushed through in the wee hours of the morning, and insist that they move forward before consumer and physician groups and the American public could see and understand the provisions?

Why do we find ourselves here on the House floor voting on an amendment that either deliberately or accidentally preempts State laws, disadvantages patients, and provides HMOs with a presumption that they are right and the patient and physicians are wrong.

Mr. Chairman, I think the answer is obvious. They knew that if people really got a chance to look at this, they would see it for the sham that it is.

This is not the way to enact a Patients’ Bill of Rights. This is the way to ensure another stalemate. Reject this amendment.

Mr. NORWOOD. Mr. Chairman, everybody knows that the New York Times is not all of our Bible. They get it wrong frequently. They even reported I lost 60 pounds; and you know darn well it was 40, so they do not get it right.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.

Mr. wollen, Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. BARTON of Texas). Mr. Chairman, my father was a combat navigator in World War II. He flew a B-24 liberator on 50 combat missions. He won every combat award the Army Air Corps could award except the Congressional Medal of Honor. I am glad he did not win that one or I would not be here.

When I got elected to Congress I went to him and I asked him for some advice. I said: Dad, what should I do when I get up there? He said: Son, always pick a good pilot.

I said: Pick a good pilot. What do you mean?

He said: There are going to be lots of rascals in Washington and they’re going to try to flimflam you; but if you’ve got a good pilot, he’ll set the right course and he’ll always get you home.

Last week the gentleman from Georgia (Mr. Norwood) was the toast of the town on the liberal side because he was holding out for the Patients’ Bill of Rights. He negotiated an agreement with the White House and President Bush which I have looked at this afternoon. It looks pretty good to me, and all of a sudden today he is accused of selling out.

Mr. Chairman, the gentleman from Georgia is a good pilot. I would fly with him anywhere. The day the gentleman from Georgia sells out is the day God won’t use him. Norwood puts the facade behind us falls off that facade. I am with the gentleman from Georgia, I am going to vote for this bill, and I say God bless the gentleman from Georgia, he is a good man.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE), who represents a State that just enacted a patients’ Bill of Rights law that will be repealed by this amendment.

Mr. PALLONE. Mr. Chairman, when you are sick and you have been denied care and often do not have the energy to fight, the Norwood amendment puts all sorts of roadblocks in the way of a real independent review. The real Patients’ Bill of Rights allows you to quickly and informally go to an independent review board. They look at the patient, they look at the medical record, look at whatever they want and decide what care you need. Norwood turns this around and puts roadblocks in your way. It makes it a judicial-type procedure stacked against you. The HMO picks the information it sends to the board, the patient has no right to see it, and no right to ask witnesses any questions. You will need a lawyer under Norwood in order to make your case. You have to prove that the HMO’s decision was wrong and should be either affirmed or overturned. There is no flexibility with the board to craft a plan of care somewhat otherwise.

Worse, if the board agrees with the HMO, a presumption in favor of the HMO makes an appeal to the courts almost impossible.

Norwood stacks the deck against you. And it gives all the cards to the HMO.

Mr. ANDREWS. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GANSKE), one of the two principal authors of this bill.

Mr. GANSKE. Mr. Chairman, I thank the gentleman for yielding time.

Here we are. This is the nitty-gritty of the debate. We have sort of been fooling around until we get to the Norwood amendment. My colleague from Georgia is an acknowledged expert on this issue. I wonder if my colleague would clarify some issues for me.

The gentleman from Georgia (Mr. NORWOOD) last night at the Committee on Rules agreed that he had said that, quote, “HMOs will be treated better than others in the Norwood amendment.” Is that because HMOs are being given affirmative defenses?

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. NORWOOD. Because there is no way that you can make it exactly the same between the physician and the HMO, I do not believe. If the gentleman is talking about the rebuttable presumption, and I presume he is, what I would say to him there is that I did the best I could do in negotiations to construct affirmative defenses.
Mr. NORWOOD. I stand by the fact that if an insurance company does exactly what they are told to do by a group of physicians in the external review model, then we have to encourage them to offer the treatment and not put them in a position that they may have the opportunity of being drug into court. But as the gentleman knows, I agree that that patient should have the right to go into court.

Mr. GANSKE. So he stands by his statement that HMOs are treated better in an amendment than others.

Now, is it the gentleman’s understanding that his bill would abrogate State laws on patients’ rights?

Mr. NORWOOD. It is my understanding and the intent of this bill that, first of all, we have a Federal cause of action for denial of care or the delay of care in State court. We intend, and it is going to be this way before we get it out of that conference if there is any question about it, because the gentleman knows how it is with lawyers: “Is” doesn’t mean “is.” One lawyer says it means this; another lawyer says it means that. But our intent is not to preempt any cause of action at the State level.

Mr. GANSKE. Let me just read to the gentleman a statement by Ari Fleischer today on this issue. The question to him was: Republicans and Democrats believe that the deal struck between Mr. Norwood and the President would abrogate State laws on patients’ bill of rights. Is that the White House understanding?

Here is what Mr. Fleischer said:

Yes. Yes. And I think you can get into a good discussion of that at the background.

Question: So he doesn’t believe that it would not abrogate State laws?

Fleischer: There are a certain series of preemptions in there.

Does the gentleman agree with Mr. Fleischer on that?

Mr. NORWOOD. In some States that presently have a managed care, an HMO reform bill, we are going to have a preemption and a replacement in that.

Mr. GANSKE. The gentleman from Georgia has respected the opinion of Sara Rosenbaum, David Frankfurt and Rand Rosenblatt. He has sent out Dear Colleagues on them. This is what they have to say about the Norwood amendment.

“In preemption of State law, the Norwood amendment goes beyond conduct that involves negligent medical judgment to a particular patient’s case. The amendment made by virtue of the words “based on” stipulate that State malpractice law does not apply to any treatment decision made by the managed care organization, whether it be negligent, reckless, willful or wanton. For example,” Rosenbaum continues, “no State cause of action could be maintain by a designated decisionmaker for its decision to discharge a patient early from a hospital even if the likely result of that discharge would result in a patient’s death. In short, all forms of vicarious liability under State law would be preempted.”

Is that an accurate representation?

Mr. NORWOOD. The key word here is “may.” We do not believe that it does that. We do not intend for it to do that. And I do not intend for it to do that when we have the opportunity to get into conference.

Mr. GANSKE. I think the gentleman, Mr. NORWOOD, Mr. Chairman, yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, our State’s motto is “Wisdom, Justice and Moderation.” A favorite son of ours today, Dr. CHARLES NORWOOD, exhibited those three qualities and those three characteristics absolutely.

I do not think a thing in the world I am going to do is going to change a mind in here, what I say; but I hope maybe we will get back and change our hearts for just a second.

My granddaddy had a saying in south Georgia when he got into a confusing controversy: “You know, if you want to get the mud out of the water, you’ve got to get the hogs out of the spring.”

We are at a point in this debate where the focus on self-interest of all the diverse interests on this bill is clouding the water. We have made steps forward in patients’ rights. We have made steps forward in the amount that can be received in noneconomic and punitive damages. We have made steps forward in protecting the fact that Americans going to have insurance and joint and several liability will not sweep through American business.

Some can poke fun at the gentleman from Georgia (Mr. NORWOOD) and the President; they come under ERISA. That is not the case. Thirty-five percent of the 1,400 appeals were in favor of the patient. The HMOs that you are defending were wrong more than half the time. That is why 52 percent of the 1,400 appeals were in favor of the patient. The HMOs that you are defending were wrong more than half the time. That is why 52 percent of the 1,400 appeals were in favor of the patient. That is why 52 percent of the 1,400 appeals were in favor of the patient.

You heard the gentleman from Texas (Mr. TURNER) talk about just the changing of an “a” to a “the” will make sure our patients are shafted by this bill.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me simply say I am trained as a lawyer. But today I stand on this floor as someone who has been, as many of us, a patient. I would like to say that I don’t want a bill. And though I agree with the gentleman, I do not want a bill; I would like to have a law. But I am prepared as a patient
fight to the last breath so that patients around the country can have the privilege of knowing that decisions between them and their physician are not interfered with by HMOs.

I know the gentleman from Georgia means well and we do respect him. But his amendment interferes and puts a wedge between the patient-physician relationship. Our people understand what is right and what is wrong. Under the presumption in his amendment, patients are wrong; physicians are wrong and the HMO stands as the right and you stand as the wrong.

I fight for the patients, and I fight for the physicians. I think this amendment should go down.

Mr. NORWOOD. Mr. Chairman, I yield 2 minutes to my lawyer, the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. I thank the gentleman for yielding me time.

Mr. Chairman, let me begin by saying I respect greatly our colleague, the gentleman from Iowa (Mr. GANSKE), who has worked very hard on this bill; but I am so important that I have to talk about the issue of affirmative defenses. In the negotiations between the gentleman from Georgia (Mr. NORWOOD) and the President, all of the affirmative defenses were stricken from the bill because the gentleman from Georgia (Mr. NORWOOD) wanted them stricken and they are gone.

Let us talk about this, the other issue of preemption. I need to talk about preemption, because a great deal has been made here. Let us talk about the issue of preemption, because that seems to be of great concern here.

It needs to be understood that, number one, ERISA today preempts a claim for benefits in all 50 States. If you try to bring a claim for benefits and bring that as a cause of action in State court, you cannot bring it in a single State, including Texas. Indeed, the corporate healthcare case, Corporate HealthCare v. Texas right here, says specifically that, if you seek to bring a claim for benefits in State court, it is preempted by Federal law.

There is a good reason for that. It is so that the management of claims in all 50 States can be uniform, because this law, ERISA, was intended to govern multi-State employers and multi-State unions.

Now, let us talk about a second issue, that is the Ganske bill. They would have you believe that the Norwood amendment is the only thing that preempts anything. That is ridiculous. The Ganske-Dingell bill preempts issue after issue within the State cause of action. It says you can bring a State cause of action, but then it preempts pieces of it. I say you can only bring it against a designated decision-maker, it says you can only bring it after exhausting external review. The preemption issue is in your bill as well as our bill, although it is 19 pages long in your bill.

Let us talk about its effort at preemption in this bill. In this bill, we say what current law says, and that is if you are bringing a claim for benefits, that belongs in Federal court. But, do you know what? We give a remedy for damages.

But we also go beyond and codify existing State law on the issue of the claims you can bring in States. If you are bringing a claim against a plan or its doctor, you can bring that for the services they delivered, you can bring that under existing State law, and this bill specifically says you can continue to bring it.

This is a red herring. I urge the adoption of the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield myself 15 seconds.

I believe the gentleman from Arizona said affirmative defenses are not spelled out in the Federal cause of action. That is right. Of course, that means it is up to the judiciary to invent them as we go along. We do not know whether there will be affirmative defenses or not, what they will mean, because it is not included in here. Because when you draft a cause of action overnight, you cannot think of those things.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me time.

Make no mistake, the Norwood amendment guts the patients' bill of rights, and what is left behind? Nothing more than an "HMO Bill of Slights."

The Norwood amendment slights patients with weakened accountability provisions; slights patients by preempting stronger State laws, which would allow patients to sue HMOs for bad medical decisions; it slights patients by prohibiting class action lawsuits against HMOs; and it slights patients by allowing delay of a patient's day in court by choosing Federal court over State court.

Mr. Chairman, justice delayed is justice denied. The American people have waited too long for a real HMO bill of rights. Vote no on the Norwood amendment, the "HMO Bill of Sights."

Mr. NORWOOD. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Georgia (Mr. DEAL), a good friend of mine.

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

As a trial attorney I am both amazed and somewhat dismayed by some of the things that have been said here today. First of all, as a trial attorney, it is amusing to see my good friend the plastic surgeon cross-examining my other good friend, a dentist. But be that as it may, there are a lot of things that have been said here.

First of all, on the issue of preemption, I think the gentleman from Arizona (Mr. SHADEGG) said it well. If States could do the things that we are seeking to do in this legislation, then let States to it. It is the very fact they cannot that is the necessity for the Federal legislation that we are attempting to put in place here today.

On behalf of my friend the gentleman from Georgia (Mr. NORWOOD), let me tell you this. I look at the Norwood amendment, who would speak against his efforts have been here for decades and saw no reason to go forward with the effort of a patients' bill of rights, and to them I say, the gentleman from Georgia (Mr. NORWOOD) should be your hero.

For those who would denigrate his methods or motives, I would simply say to them, this issue would not be here today on the brink of becoming law had it not been for his dedication. Those of you who think the gentleman from Georgia (Mr. NORWOOD) has sold out, it simply proves to me, you do not know the gentleman from Georgia (Mr. NORWOOD).

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN), one of our advocates for a strong and forceful patients' bill of rights.

Ms. LOFGREN. Mr. Chairman, it has been quite a week here in the House of Representatives. On Tuesday, we made it a felony for scientists to cure disease with stem cells; Wednesday, we gave $36 billion in tax goodies to big oil, gas and others, and allowed drilling in national refuges; and today, we see the perversion of a good idea, a law that would protect patients from insurance companies has been transformed into a bill that protects insurance companies from patients.

The President's deal was obviously written today, or at least for, special interests. It would repeal California's responsible law and replace it with a new Federal preemption that would prevent wrongdoers who are insurers, even intentional wrongdoers, from being held responsible for their actions.

Now, why is it that doctors, lawyers, nurses can be held responsible for their wrongdoing, but not insurance companies? It looks to me that the bigger the campaign contributions to the Republicans, the bigger the payoff with laws to benefit those same contributors.

This body has morphed from a place where legislation is deliberated upon to the White House ATM machine. This
week, start by making scientists criminals; midweek, trash the environment; today, destroy the patients' bill of rights.

It is a good thing Congress is about to recess. I do not know if the country could stand another week like this one of Republican “victories,” where the special interests rule to the detriment of ordinary Americans.

Mr. ANDREWS. Mr. Chairman, we hear a lot about the benefits of the Texas patients' bill of rights, which will be repealed as a result of this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me start out by saying I have nothing but the highest respect for the gentleman from Georgia (Mr. NORWOOD). The problem is, the gentleman from Georgia (Mr. NORWOOD) went as far as could go, and he ran into the White House. It is ironic, after being here for 7 years, coming from a State where my former Governor used to say, let Texas run Texas, and where my Texas colleagues up here on the other side of the aisle said, let the States do it. But the States can do it better, what always happens, whenever it gets in the way of the powerful special interests, this idea of devolving power to the States becomes wholly inconvenient.

The bill before us today would unwind the law in Texas that passed under George Bush's watch, the law that he talked about during the campaign that he was so proud about. But the fact is, that it upends the interests of very powerful insurance companies who do not like the Texas law, they do not like the California law, they do not like the New Jersey law.

Now we are told we have to pass a bill in the House before conference so we can get to conference, and then the gentleman from Georgia (Mr. NORWOOD) for bridging this gap and made it possible for those people, not only in large and small businesses, and small businesses, as you know, comprise 75 percent of the employment in this country, it enables them now to buy into a program which they feel they can afford, without having the sword of liability, unending liability, hanging over their head.

I think a lot of people are going to be thanking the gentleman from Georgia (Mr. NORWOOD) for bridging this gap, because it would not have happened without him.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. SANDLIN), another Texan who does not want his State law repealed by the Norwood amendment.

Mr. SANDLIN. Mr. Chairman, I rise in strong opposition to this outrageous amendment. For patients, this amendment is a lose-lose situation. It is heads, the HMOs win, and tails, the patients lose.

Just a couple of points. This presumption, do you realize where there is a rebuttable presumption that creates a hurdle so high that patients will never be able to recover? I have been in this situation before.

Do you know that courts will be giving written instructions to juries so the insurernce company ought to win again, and that is the burden you are putting on them.

You are also increasing the burden on punitives. You are making it outrageous. You are increasing it to clear and convincing. That will never happen.

The biggest fraudulent change of all will be done in the dark of the night where the standard was changed from a proximate cause to the proximate cause. That was not done by accident, it was done to gut the entire bill. If someone dies from a heart attack, for example and was denied treatment, the death will not be from the lack of treatment, it will be from the heart attack, and they lose.

This entire bill has been gutted. We all know what happened. We worked 5 years on this bill, and last night it was undone in a matter of minutes, and we know what happened.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAUR). Ms. DELAUR. Mr. Chairman, I rise in opposition to the Norwood amendment. It overturns the painstaking work that has been done over the past 5 years to craft a good piece of legislation. It said that is not to protect patients in this country, that we are going to protect their families.

It essentially establishes an HMO bill of rights. It affords insurance companies and HMOs a special status. It literally gives them the ability to act with impunity, that is, to make medical decisions that overrule doctors and harm patients; and, my friends, they never have to face the consequences of their actions.

It is the first time, and now legally the presumption is that the HMO is right, and you have to prove them wrong. That is what happened at the White House last night.

The Bush-Norwood amendment is just another example of President Bush siding with the special interests over hardworking American families by carving out special protections for the HMOs. This amendment rolls back patient protections, it walks all over States' rights.

My God, the other party is always talking about States making their decisions, individuals making the decisions, except when it conflicts with the rewards for their special interest friends.

Vote against the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), a strong voice against special interest legislation.

Mrs. JONES of Ohio. Mr. Chairman, I rise in opposition to the Norwood amendment. It is not easy to speak in a vacuum about the impact that legislation has on the Federal level in State courts.

But the reality is, with the lack of time dedicated to this particular legislation, we do not really know what in
check it will have. In fact, we worry, and I am sure the gentleman from Georgia (Mr. NORWOOD) worries as well, that people’s ability to bring claims in State courts have been, in fact, affected by this legislation.

Many of my colleagues may have had the opportunity to think about what happens in a courtroom, but I served in a courtroom for 10 years. One of the dilemmas about having legislation that is passed and saying in the State court, this is the impact we think it is going to have is that it will ultimately take someone’s case to work its way through the State court, through the appellate court, and then to the Supreme Court to resolve it.

So why, when we are people of good sense, can we not resolve it right here and understand and put in place legislation that will not have that type of impact?

Mr. Chairman, I rise in opposition to this legislation.

Mr. NORWOOD. Mr. Chairman, it is a pleasure to yield 1½ minutes to the gentleman from Tennessee (Mr. HILLERY).

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

Mr. HILLERY. Mr. Chairman, I am a proud supporter of the Norwood amendment and I commend the gentleman from Georgia and the President last night for breaking the logjam on the Patients’ Bill of Rights.

The Norwood amendment affects only liability. We are all in agreement on the medical care side of this debate. The only debate is over where the available money for health care will go, to the patients or the cost of litigation.

The Norwood amendment calls for full compensation to the patient for economic damages caused by an HMO. In other words, patients are completely compensated for reimbursement for the money the HMO actually caused them to lose. In addition, the Norwood amendment allows up to $3 million for pain and suffering and punitive damages. That is a lot of money, but not so much money as to create massive numbers of new, frivolous lawsuits.

The Ganske bill, on the other hand, allows for unlimited punitive and economic damages. This will be a tremendous enticement for frivolous lawsuits. Thus, much of the limited available money for patient health care will be chewed up in the litigation of these lawsuits, not for health care.

The bill of the gentleman from Iowa (Mr. GANSKE) also makes an effort, although an inadequate effort, to close off lawsuits against businesses which had absolutely nothing to do with the HMO’s unlawful act. No business in its right mind will offer insurance or any kind of health care benefits to its employees if the businesses can be sued for something they did not do.

If we want a legitimate Patients’ Bill of Rights that actually wants a chance to become law this year and help these people we keep talking about, I strongly urge my colleagues to vote for the Norwood amendment.

Mr. NORWOOD. Mr. Chairman, it is a pleasure to yield to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank the gentleman for yielding me time, and let me say that all of us, I think, that the gentleman from Georgia (Mr. NORWOOD) a great big thank-you. The gentleman has been at this for 6½ years as a Member of Congress. I know when I went to his district in 1994 and campaigned with him, we went around his district, we spent 16 hours in a bus going to about 16 small towns in eastern Georgia. Those constituents in that district wanted a Patients’ Bill of Rights.

The gentleman came up here, and we all know, every Member of Congress knows the man in this body who has worked harder, nobody who has put more heart and soul into trying to find the right language that will be signed into law than the gentleman from Georgia (Mr. NORWOOD), and we owe him big thanks.

Everybody thinks there is some big fight here, that there is some huge difference. Let us put it all back in perspective. The bill we have here is an identical bill. We have one bill. The only big argument is over how much more liability we are going to impose on insurers and on employers.

The amendment offered by the gentleman from Georgia basically says that we are going to expand remedies and we are going to expand liability from where we are today, and we are going to give people easier access to courts. Our friends on the other side have an even greater expansion of liability allowed in their courts, and what their language will do is drive employers out of the system, will drive up costs for employers and their employees. It will damage the foundation of our health insurance system today, which is employer-provided coverage.

What we are trying to do here is to find some common ground, and I think the gentleman from Georgia (Mr. NORWOOD), working with the President, has found a bill that will give patients in America greater access to the courts, greater remedies, bringing greater accountability. Not as much as we have on the other side, but our bill will not drive employers out of the system; it will not drive up costs. It is a reasonable compromise that the American people expect us to deliver for them.

Mr. ANDREWS. Mr. Chairman, it is my privilege to yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), the principal voice for patients around America.

Mr. GANSKE. Mr. Chairman, I have here a “Dear Colleague” that was sent out by the gentleman from Georgia on August 1. It says, “An explanation of how ERISA preemption works.” It says, “Under H.R. 2563,” that is the base bill, the Ganske-Dingell bill, “if an insurer injures you by denying or delaying medically necessary care, you lose. You lose to State court under the common law to hold the insurer accountable.” That has been a fundamental part of the bill.

So it surprised me greatly when I read page 20 of the Norwood amendment these words: “A civil action brought in any State court under section such and such ‘against any party other than the employer plan, plan’s sponsor or any other entity, i.e., dedicated decision-maker, arising from a medically reviewable determination may not be removed from any district court’.”

What this basically means is that all of those groups can go into Federal, and they get to the interesting part of the Norwood bill. I mean, this could be interpreted as unconstitutional under Pegram v. Hedrick.

But then, at the end, we have a nonseverability clause. And the entire enforcement section becomes inoperative if one section in the Norwood amendment is unconstitutional.

Mr. Chairman, I am just amazed at this. I know the gentleman from Georgia in the past has fought against putting nonseverability clauses in.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, all of those bills, but the preemption clause remains, and, as a result of this, the subscriber to the health care plan is left totally naked and devoid of any protection or any rights to enforce his interests in his policy.

Mr. NORWOOD. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Georgia.

I just want to make the point that we just heard from the other side that somehow cases that are in State court would be removed to Federal district court. That would not happen under the Norwood amendment. It would be in State court with a Federal cause of action.

So I do not know what the point of that last statement was, but we are in State court, and the Norwood bill. That is a change that the gentleman from Georgia (Mr. NORWOOD) brought to this debate.

I am a strong supporter of the Norwood amendment and I also am a supporter of the underlying bill. I want to back up for a second and talk about why we are here. Eight years ago when I got elected to Congress, we were talking about the Patients’ Bill of Rights, and it was about access to emergency room care, it was about access to OB-GYNs, it was about access to specialists, it was about access to clinical trials. All of this is in
This is the biggest batch of rainbow stew I have ever seen. That is what it is. It is rainbow stew. That is what your constituents are going to get is rainbow stew.

I carry this buckeye in my pocket. It is a worthless little old thing. Folklore in Arkansas says if you carry one, it will bring you good luck and keep rheumatism away if you rub it just right. You have got to know how to rub it. That is what this is going to be worth to the American people.

Now, we have heard over and over that the real important thing about this is, it will be signed into law. If this ever gets signed into law, I will come to this floor and ask for unanimous consent, and stand on my head and stack BBs. And I am not in too good a shape. I think it would be very difficult. I urge this body not to do something so foolish as to vote for this amendment.

Mr. NORWOOD. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CULBerson), a new Member of Congress who, I think, is a great addition to this Chamber.

Mr. CULBerson. Mr. Chairman, I rise in very strong support of the Norwood amendment, because I am completely committed to protecting the 10th amendment right of the States to enact a Patients' Bill of Rights.

I came here on January 3 after serving 14 years in the Texas house. I am a coauthor of the 'Texas patients' bill of rights. I served longer under Governor Bush than any other governor. I helped carry all of his tort reforms in 1989. I helped pass this patients' bill of rights in Texas in 1997. So I know firsthand that this legislation the gentleman has drafted does not preempt the Texas patients' bill of rights, as has been stated. This bill protects the rights of States to regulate health care and to pass medical malpractice laws.

Mr. Chairman, I know that George W. Bush is a man of honor, integrity, and a man of his word; and he and the gentleman from Georgia (Mr. Norwood) have both given us their word that if there is any doubt that this bill would in any way preempt or restrict the rights of the States to regulate health care or protect patients' rights, they will fix it in conference. I believe the language they have now protects the rights of States.

I strongly support the amendment, and I urge Members who believe in the rights of States to protect the rights of patients at the State level to support this legislation.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), a giant in this institution, the dean of the House of Representatives and our great friend.

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

Mr. DINGELL. Mr. Chairman, I think it is time for us to look at this as what it is. I am told by my good friend on the other side that the problem here is lawsuits. I am sure they have trouble with that.

My problem is without some mechanism for the American citizen to think his rights are being properly protected by the courts of our country and that is sustainable right for that American citizen.

I had a good friend who called me up not long back. He is a doctor of medicine, very much respected. He had been working for an HMO since he retired. He said, DINGELL, you do not know it but they just fired me. I said, Doc, tell me why they did it. He said, They said I was making medical decisions instead of insurance decisions.

That is the issue here before us. We want to see to it that we still have medical decisions being made in favor of, and on behalf of, the patients. This is to see to it that the HMOs are treated the same as anybody else, not given preferential and reverential treatment.

That is what the Norwood amendment does. It shelters them against litigation. Worse than that it preempts State law; and in the process it jiggers the rules of evidence, the weight of the proceedings, the manner of proceedings, so that the hand of the Government is weighing heavily on the scales of justice against the citizen who has lost a leg or a wife or a husband or who has been injured by HMOs engaging in the practice of medicine.

If an American citizen cannot go to court to get relief and help under those situations, the value of his citizenship has been shrunk, and it will be shrunk by the Norwood amendment if it is adopted. Just remember what I stated about my friend who was fired for making medical decisions instead of insurance decisions.

Now, it does preempt the laws of the States now in existence; and it weighs the new proceedings against the person who wishes to complain to his government or the courts or the legislature to get help with that. I have here in my hands a letter which I will insert in the RECORD at the appropriate time from the Michigan commissioner from the State of Michigan, a good Republican official, who states that the state of Michigan is being usurped by the amendment offered by my good friend from Georgia. Protect our citizens, if you will not protect your own, against that kind of outrage.

OFFICE OF FINANCIAL AND INSURANCE SERVICES,

Dear Representatives: I am contacting you again with regard to an amendment that is being proposed to the patients' bill of rights legislation. It calls attention to the fact that the Norwood amendment contains a provision that would preempt all State internal and external review laws. States would not be allowed to retain these laws. The internal and external review process would be federalized.
I oppose the portion of the Norwood amendment that would preempt the Michigan Office of Financial and Insurance Services' ability to implement, oversee, and enforce these statutory internal and external grievance procedures. Michigan was one of the first states to implement both an internal and external grievance procedure when the Patient Rights and Internally/Externally Resolved Act (PRIRA) took effect October 1, 2000.

I am asking for your help in resolving this preemption issue as the process moves forward. The Senate bill allows states to certify state laws and therefore retain their internal/external reviews, so this issue will be a point of negotiation in conference. It would be very helpful if enough Members objected to this provision in the Norwood amendment so that it is highlighted for those conference negotiations. If States are not allowed to retain jurisdiction over the internal and external review process then their ability to over-see other protections will be severely limited.

Very truly yours,

FRANK M. FITZGERALD, Commissioner,
Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may-consume.

The CHAIRMAN. The gentleman from Georgia has 7 minutes.

Mr. NORWOOD. Mr. Chairman, this is not the ideal process I would have designed to govern debate today. I am disappointed that some of my colleagues have allowed their passionate feelings about process to lead them into making dubious statements about substance, because this debate must assure substance and should be about substance.

I would like to remind my colleagues of what my amendment provides for injured patients. A patient who is injured when an insurer makes a negligent denial of claim for benefits will have the opportunity to have that insurer accountable to the State court. The patient will have access to the State courts that we have together supported for years. The patient will hold the insurer accountable under the same State rules and procedures that a doctor will be held accountable under. Is not this what we have been fighting for all these years?

My amendment includes those protections to prevent frivolous lawsuits that we have all fought to include in a bill. My amendment maintains the ability of patients to hold their insurers accountable after they have exhausted all administrative remedies. My amendment requires patients to exhaust all administrative remedies before filing a lawsuit in State courts.

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

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

My amendment includes limitations on damages. There is a $1.5 million cap on noneconomic damages. There is a cap on punitive damages of $1.5 million. That is only available when an insurer ignores an external reviewer. I believe personally in limitation of damages and think it is a good compromise. I want to see how far you feel we can go in protecting the insurer without making the patient the loser. This is a legitimate area for debate. Is it not?

Mr. Chairman, these issues I have raised are issues we should be debating. I am sorry that the debate has deteriorated to the point where the public has been confused about what they think they have not been given adequate time for a debate. I will understand if they feel they cannot support my amendment solely because of process, because they have heard me complain before of similar things.

But before Members cast this vote against this bill, I ask them to consider what the amendment actually does; and more importantly, I want Members to support who supports this bill.

The President's offer to sign our bill with this amendment. I have been working for 5 years to get a bill signed into law, not just pass another bill. Like it or not, we have to work with this President who has to sign this bill.

I think my colleagues are deluding themselves, maybe, if they think we can force a bill down this President's throat. It is simply not going to happen with this honorable man from Pennsylvania.

I know there are words that need to be changed. I think my colleagues are missing the boat by treating every interpretation of a problem in my amendment, real or imagined, as a life-or-death decision.

Instead, we should be looking at the underlying offer and asking ourselves, is this an offer that accomplishes what we set out to do in creating a real remedy for patients?

Mr. Chairman, the answer to that question is yes. I encourage my colleagues, all my colleagues, to join me in accepting the President's offer of a compromise to go into conference. I would encourage my colleagues who will vote no today to set aside their feelings and ask themselves, what are they holding out for? What is it that they need to say yes to, once and for all changing the law of this great Nation to protect patients?

Mr. Chairman, I have found the answer, I believe. The working answer is in this amendment and in a conference. I would encourage my colleagues to join me in supporting this amendment. I am saddened deeply that it will not be bipartisan; and I know it will not, because I believe now and I have believed for years the true answer to this is a bipartisan solution.

I want to take a minute of personal privilege, to thank all the Members. Many Members on both sides of the aisle have worked as hard as I have. I know who they are. I have worked as hard against my friend, the gentleman from Kentucky (Mr. FLETCHER), as anybody I know; but by golly, he has worked hard in his own way to protect patients, too.

Nobody I know has been around this issue consistently and constantly and every time I turn around more than my friend, the gentleman from Arizona (Mr. SHADEGG). He has added tremendously to this debate in many ways, which I do not have time to go over right now.

I want to say to all of my Democratic colleagues, I believe them very much when they say they want a patient protection bill. I believe that our Members do, too. I know how hard they have worked. I know who they are. I have had a few hours with them to try to work this out.

I just have to point out to all the Members, I want Members to know who Rodney Whitlock is. I do not know anybody, including a me, that has worked as hard as the gentleman has. I admire the gentleman so. I know he is trying to do the right things for his patients. God knows, there is nobody persistent and I have done to them. My friend, Rodney Whitlock, has been with me 7 years; and I do not know many people who have taken a worse beating on my behalf than Rod- ney Whitlock in the last 2 weeks. I thank him.

And to my friend, the gentleman from Michigan (Mr. DINGELL), he knows I love him and respect him, and I know where he wants to go. He knows where I want to go. It has been a great honor working with this gentleman from Michigan. I appreciate his efforts on behalf of patients, too.

Lastly, I want to say to my friend, and I do mean that, to the gentleman from Iowa (Mr. GANSKE), I do not know anybody, including a me, that has worked as hard as the gentleman has. I admire the gentleman so. I know he is trying to do the right things for his patients. God knows, there is nobody persistent and I have done to them. My friend, Rodney Whitlock, has been with me 7 years; and I do not know many people who have taken some tough hits. I know the people of Iowa need to be grateful to have you as their Rep-representative in Congress.

Lastly, I want to say to all of the Members about the President of the United States, I do not make any bones about it. I love this man. I have gotten to know him. I have the greatest respect and admiration for who has worked her little heart out for the benefit of patients of this Nation.

I want to say to my staff. I thank them, I know what they have done to them. My friend, Rodney Whitlock, has been with me 7 years; and I do not know many people who have taken a worse beating on my behalf than Rod- ney Whitlock in the last 2 weeks. I thank him.

And to my friend, the gentleman from Michigan (Mr. DINGELL), he knows I love him and respect him, and I know where he wants to go. He knows where I want to go. It has been a great honor working with this gentleman from Michigan. I appreciate his efforts on behalf of patients, too.

Lastly, I want to say to all of the Members about the President of the United States, I do not make any bones about it. I love this man. I have gotten to know him. I have the greatest re-spect for the work. Whatever Members may think of him, I promise them, the President and his staff have worked me good for the last 2 weeks. What they have been trying to do is to get a patients' protection bill out that they have agreed with.

I thank them for their efforts and thank all of the Members. I hope that at some point tonight we will have a bipartisan vote.
Mr. ANDREWS. Mr. Chairman, let me begin by expressing my appreciation to my good friend, the gentleman from Michigan (Mr. DINGELL), whom I admire so much; to the gentleman from Iowa (Mr. GANSKE); and to all those involved.

The vote we are about to take is not about the good intentions of good and decent people, because there are many in this debate. It is about making a good choice for the people of our country, the people who are sitting in a hospital sitting-room tonight with their stomachs and their hearts in their throats, not just because they are worried about whether their loved one is going to recover, but whether they are going to have a hassle over who pays the bill. That is who we have to think about here tonight.

I respect those who are here tonight to try to help the President. I am here to try to help the patients of the United States of America here tonight.

To try to help the President. I am here to try to help the patients of the United States of America here tonight.

The way I read this bill, there is one word that denies that family's claim. Because despite whatever good intentions there might be, the law is about words, not good intentions. The words in this bill say that the actions of the HMO have to be the proximate cause of the injury.

And a good lawyer, and, boy, the HMOs have really good lawyers, is going to figure out in a heartbeat how to beat that case. Because he or she is going to say the death here was not "the" proximate cause by the HMO, it was a "a" proximate cause. So the claim gets tossed out.

This is not just about words, it is about values. If we want to hold the HMOs of this country accountable, this is the vote. There will not be another one. I do not think so. If my colleagues want to hold them accountable, they should get out there, take out their card, and vote for the patients of this country. Vote "no" on the Norwood amendment.

Mr. WEXLER. Mr. Chairman, I would like to state for the record my enthusiastic support for the Dingell-Ganske-Berry Patients' Bill of Rights (H.R. 2563) and my opposition to the Norwood amendment. The Dingell-Ganske is the only true patient protection bill in Congress. H.R. 2563 allows patients to sue an HMO in state courts when they are denied care. Further, the bill allows patients to sue in federal court for breach of contract.

H.R. 2563 would return medical decision-making to patients and health care professionals. Americans would have greater access to specialists and other health providers. Children and gynecologists for women. Coverage for emergency room care would be available, as well as the right to talk freely with doctors and nurses about every medical option. The Patients' Bill of Rights would end financial incentives for doctors and nurses to take action quickly. It would also provide an appeals process and real legal accountability for the decisions made by insurance companies.

Opponents of this bill claim that the Dingell-Ganske Patients' Bill of Rights would unnecessarily expose employers to lawsuits. In fact, the newly filed Dingell-Ganske bill includes amendments adopted in the Senate which shield employers from liability if they are not directly involved in the decisionmaking process.

In the light of the passage of the McCain-Kennedy, Edwards Bipartisan Patients' Bill of Rights in the Senate, the Republican leadership has drafted a weak amendment that purports to protect patients' rights while at the same time protecting the insurance industry. While I respectfully support the Republican leadership and Congressman Norwood crafted an amendment that basically negates the Dingell-Ganske bill. While the Norwood Amendment claims to allow lawsuits to be filed in state courts, such suits would be limited by federal law. Further, the Norwood amendment allows employers to unilaterally remove an action from state to federal courts. Federal courts are the wrong venue for bringing medical suits. Federal courts are backlogged with cases that would take priority over civil actions. Further, federal courts do not have experience with medical suits because they are typically brought before state courts.

Additionally, the Norwood amendment unreasonably caps non-economic damages. Those without substantial income—the elderly, disabled, and children—would suffer the most under these limited damage provisions. The Amendment also caps punitive damages and heightens the bar required to obtain compensation by asking juries to meet the "clear and convincing" standard prior to awarding damages. In short, the Amendment creates legal hurdles that make it almost impossible for a patient who is being denied care to get help from the courts.

All concerns over the Bipartisan Patient Protection bill have been resolved in the Senate and have been adopted in the newly drafted Dingell-Ganske. There is no reason to oppose this bill, unless you are trying to appease the insurance companies.

Ms. MILLINDER-MCDONALD. Mr. Chairman, I rise in support of the base bill, Dingell-Ganske-Berry. However, I am concerned about the conditions in the Norwood amendment, if adopted, that will have a deleterious impact on women.

H.R. 2563, in its original form, provides protections for women and mothers and provides them with direct access to a physician specializing in gynecology. Without the bill, women would be forced to obtain prior authorization or referral from their primary physicians. The base bill requires that plans permit parents to designate a pediatrician as their child's primary provider. My district constituents will derive substantial benefits from this provision. Furthermore, the base bill provides vital protection regarding medical and surgical benefits for women afflicted with cancer, including coverage that a doctor feels is necessary for breast cancer care.

Mr. Speaker, it is paramount for us to pass a bill that establishes both internal and external appeals processes, and which allows women a mechanism to appeal a denial of a benefit claim to services and/or treatment that a doctor feels is necessary for breast cancer care.

Norwood-Ganske-Berry. However, I am concerned about the conditions in the Norwood amendment, if adopted, that will have a deleterious impact on women.

Mr. Chairman, opponents of the Bipartisan Patients' Bill of Rights contend that allowing the public to sue their HMOs will lead to a litigation explosion, a rise in health care costs, and insurance companies going bankrupt. Regardless of the fact that none of these theories have been proven, and that the facts actually show the opposite to be true, they are inundating the public with this misleading rhetoric.

Mr. Chairman, we must pass a Patients' Bill of Rights that no longer allows HMOs to maintain their privileged immunity and held legally responsible to their patients. This amendment provides for a one-sided preemption of state damage caps. For states with no damage caps, the damage caps in this amendment would apply. States that currently do not cap damages would be forced to accept the damage limits in this bill.

Mr. Chairman, a $500,000 cap to cover damages for pain and suffering is not enough. Placing a cap on punitive damages erodes the deterrent effect of punitive awards.

Mr. Chairman, I would like to conclude with an example that may provide my colleagues with a clearer picture of what the Norwood amendment does to patients who depend on their insurance companies to provide for them. Consider the woman with breast cancer. Her HMO denies her which could have detected it. The undetected cancer worsens. When it is finally diagnosed, it is beyond treatment. The woman dies. Her family brings a lawsuit against the HMO for failure to provide the mammogram that could have identified the condition.

Even if the jury finds fault with the HMO, $500,000 will not bring that woman back. $500,000 is not enough for pain and suffering. $500,000 is a slap on the wrist for a cancer that is beyond saving. Treatment. Even if the jury finds fault with the HMO, $500,000 will not bring that woman back. $500,000 is not enough for pain and suffering. $500,000 is a slap on the wrist for a cancer that is beyond saving.

Now, I ask my colleagues to imagine that this woman was their mother, their wife, their...
daughter. Would $500,000 be enough to raise your kids? Would $500,000 be enough to put your kids through college? Would $500,000 be enough to explain where their mother is? How then would they feel about the Norwood amendment—the amendment that stacks the deck against patients, the amendment that could legally stack the deck against one of their loved ones?

Mr. O重要的, Mr. Chairman, I rise in opposition to the Norwood amendment to H.R. 2563, the Bipartisan Patient Protection Act, aka, the Patients’ Bill of Rights.

The deception being debated here today is quite reminiscent of Orwell’s novel in which every citizen wakes up to a new reality. Yesterday, we left the Hill and Mr. Norwood was one of the key proponents of a significant and fair Patient’s Bill of Rights that was truly bipartisan. We arrived today and the Patients’ Bill of Rights has been transformed into a HMO Bill of Rights, stripping both patients and states of the right to hold these “sacred cows” accountable. The extent to which the American people are being counted upon to ignore the facts and simply don’t worry, be happy that something was done is shameful and frightening.

A system of checks and balances is only fair and just. Why should the patient and their family members be left without recourse in the event of a tragic error simply because they be

Mr. Chairman, I urge my colleagues to defeat this poison pill. This amendment provides patients protections on the face of it, but it is nothing more than a gift to the HMO industry. The American people want us to give them a real Patients’ Bill of Rights with real enforcement provisions and real protections.

Mr. McGovern. Mr. Chairman, I urge today to vote for the Bush amendment for Ganske-Dingell.

And then there is the Bush amendment, which is nothing more than poison pills designed to kill real patient protections. For five years, the Republicans ignored patients by forcing through hollow patient protection bills that only benefit insurance companies.

President Bush wants the House to pass a bill just different enough that the Senate cannot support it. The House Republican leadership has taken it upon themselves to defeat the passage of a real Patients’ Bill of Rights that is fair and just.

Mr. Chairman, to preserve states’ rights and consumer rights; and to block one more path toward the corporate takeover of America, I urge my colleagues to defeat this poison amendment, and pass a fair Patient’s Bill of Rights.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in opposition to the Bush amendment and I urge my colleagues to oppose its passage.

I agree with the American Medical Association, which opposes the Norwood amendment for very four good reasons.

First, the Norwood amendment overturns the good work that states like Texas and Georgia have done in protecting patients. It routes developing case law that allows patients to hold plans accountable when they make decisions that harm them.

Second, the Norwood amendment takes away states power to set the standards by which HMOs can be punished with punitive damages creating a one-way preemption of states rights in favor HMOs.
S. 202

SEC. 809. Effective date; general provisions.

SEC. 807. Effect on other laws.

SEC. 806. Compensating patient injury; fair share rule.

SEC. 805. Authorization of payment of future damages to claimants in health care lawsuits.

SEC. 804. Compensating patient injury; fair share rule.

SEC. 803. Encouraging speedy resolution of claims.

SEC. 802. Application in states.

SEC. 801. Table of contents of title.

TITLE VIII—REFORMS RELATING TO HEALTH CARE LIABILITY CLAIMS

Mr. ISTOOK changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in House Report 107–181.

AMENDMENT NO. 3 OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. Thomas:

Add at the end the following new title (and amend the table of contents of the bill accordingly):

TITLE VIII—REFORMS RELATING TO HEALTH CARE LIABILITY CLAIMS

SEC. 801. TABLE OF CONTENTS OF TITLE.

The table of contents of this title is as follows:

Sec. 801. Table of contents of title.
Sec. 802. Application in States.
Sec. 803. Encouraging speedy resolution of claims.
Sec. 804. Compensating patient injury; fair share rule.
Sec. 805. Authorization of payment of future damages to claimants in health care lawsuits.
Sec. 806. No punitive damages for health care products that comply with FDA standards.
Sec. 807. Effect on other laws.
Sec. 808. Definitions.
Sec. 809. Effective date; general provisions.

SEC. 802. APPLICATION IN STATES.

The provisions of this title relating to any requirement or rule shall not apply with respect to a health care lawsuit brought under State law insofar as the applicable statutory law of that State with respect to such lawsuit specifies another policy with respect to such law.

In all cases, a health care lawsuit shall be filed no later than 2 years after the date of the injury. The time periods for filing health care lawsuits established in this section shall not apply in cases of malicious intent to injure. To the extent that chapter 171 of title 28, United States Code, relating to tort procedure, and, subject to section 802, State law (with respect to both procedural and substantive matters), reduces the period during which a health care lawsuit may be initiated than is authorized in this section, such chapter or law is superseded or preempted.

SEC. 804. COMPENSATING PATIENT INJURY; FAIR SHARE RULE.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, each party shall be liable for the amount of damages awarded to the claimant or receive any lien or credit to secure the right to such collateral source benefits or mandates or permits subrogation of a lesser amount, in either event, the future non-economic damages shall be reduced by the amount provided under section 809(d)(2), if applicable shall be reduced either before the entry of judgment or, by an amendment of the judgment. If separate awards are rendered for past and future non-economic damages and the combined awards exceed the amount so specified, the future non-economic damages shall be reduced first.

(b) ADDITIONAL NON-ECONOMIC DAMAGES.—Subject to section 809(d)(2), in any health care lawsuit, the amount of non-economic damages may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NON-ECONOMIC DAMAGES.—In any health care lawsuit, an award for future non-economic damages shall not be discounted to present value. The jury shall not be informed of the maximum award for non-economic damages. An award for non-economic damages in excess of the amount specified in subsection (b) or the amount awarded under section 809(d)(2), if applicable shall be reduced either before the entry of judgment, or by amendment of the judgment after entry, and such reduction shall be accounted for any other reduction in damages required by law. If separate awards are rendered for past and future non-economic damages and the combined awards exceed the amount so specified, the future non-economic damages shall be reduced first.

(d) FAIR SHAR Rule.—In any health care lawsuit, each party shall be liable for the party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(e) ADDITIONAL BENEFITS.—In any health care lawsuit, any party may introduce evidence of collateral source benefits. If any party elects to introduce such evidence, the opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of such opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be entitled to a setoff. If separate awards are rendered for past and future non-economic damages and the combined awards exceed the amount so specified, the future non-economic damages shall be reduced first.

(f) LIMITATION OF APPLICABILITY OF THIS SECTION.—This section applies only to health care lawsuits. Furthermore only to the extent that—

(1) chapter 171 of title 28, United States Code, relating to tort procedure, permits the recovery of a greater amount of damages than authorized by this section, such chapter shall be superseded by this section; and

(2) only to the extent that either chapter 171 of title 28, United States Code, relating to tort procedure, or, subject to section 802, State law (with respect to procedural and substantive matters), prohibits the introduction of evidence regarding collateral source benefits or mandates or permits subrogation of a lesser amount, in either event, the future non-economic damages shall be reduced first.

SEC. 805. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a period payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws in July 1990. This section applies to all actions which have not been first set for trial or retrial prior to the effective date of this title.

(b) LIMITATION ON APPLICABILITY OF THIS SECTION.—Only to the extent that chapter 171 of title 28, United States Code, relating to tort procedure, or, subject to section 802, State law (with respect to both procedural and substantive matters), reduces the applicability or scope of the periodic payment of future damages as authorized in this section, is such chapter or law preemted or superseded.
SEC. 806. NO PUNITIVE DAMAGES FOR HEALTH CARE PRODUCTS THAT COMPLY WITH FDA STANDARDS.

(a) GENERALLY.—In the case of any health care lawsuit, no punitive or exemplary damages may be awarded against the manufacturer of a medical product based on a claim that the medical product caused the claimant's harm if the medical product complies with FDA standards.

(b) EXCEPTION.—In the case of a health care lawsuit described in subsection (a), punitive or exemplary damages may be awarded against the manufacturer of a medical product if the medical product complies with FDA standards and—

(1) the product was not marketed in compliance with FDA standards; or

(2) the product was marketed with knowledge or reckless disregard of such noncompliance with FDA standards.

SEC. 807. EFFECT ON OTHER LAWS.

This title does not affect the application of title XXI of the Public Health Service Act (relating to the national vaccine program). To the extent that this title is judged to be in conflict with title XXI, then this title shall not apply to any aspect of the authority or jurisdiction of the Secretary of Health and Human Services to carry out such title.

SEC. 808. DEFINITIONS.

As used in this title:

(1) ALTERNATIVE DISPUTE RESOLUTION.—The term ‘‘alternative dispute resolution’’ means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal Court.

(2) AMOUNT RECOVERED BY CLAIMANTS.—The term ‘‘amount recovered by claimants’’ means the total amount of damages awarded to a party, after taking into account any reduction in damages required by this title or applicable law, and after deducting any disbursements or costs incurred in connection with such lawsuit, including all costs paid or advanced by any person.

(3) CLAIMANT.—The term ‘‘claimant’’ means any person who asserts a health care liability claim or brings a health care lawsuit, including a person who asserts a claim or brings a health care lawsuit as a legal or equitable contributory, indemnity, or subrogation, arising out of a health care lawsuit, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(4) COLLATERAL SOURCE BENEFITS.—The term ‘‘collateral source benefits’’ means any amounts that are reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future, if receipt of the amount results in a result of injury or wrongful death, pursuant to—

(A) any State or Federal law, sickness, income-disability, accident or workmen's compensation act;

(B) any health, sickness, income-disability, or accident insurance that provides benefits to the claimant or a person on whose behalf such a claim is asserted or such an action is brought; or

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of, medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(5) COMPLIES WITH FDA STANDARDS.—The term ‘‘complies with FDA standards’’ means, in the case of any medical product, that such product is marketed in conformity with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 360, 360e, 360j) or section 351 of the Public Health Service Act (42 U.S.C. 262) and such product is marketed in conformity with the adequacy of the packaging or labeling of such medical product or the safety of the formulation or performance of any aspect of such medical product, such medical care lawsuit claims caused the claimant’s harm, and such medical product was marketed in conformity with the regulations under such section.

(6) CONFLICTING LAW.—The term ‘‘conflicting law’’ means a law that imposes a greater liability on the defendant for the purpose of personal injury or wrongful death, vis-à-vis any other law as defined in this title.

(7) ECONOMIC LOSS.—The term ‘‘economic loss’’ means—

(A) a claimant’s actual damages, including—

(i) the cost of medical, hospital, dental, or income-disability benefits; and

(ii) any service, product or other benefit provided for to prevent or mitigate the claimant’s harm; and

(B) any other non-pecuniary losses.

(8) ECONOMIC MISTAKES.—The term ‘‘economic mistakes’’ means—

(A) an injury or illness caused by an act or omission that was reasonably foreseeable but not intended;

(B) a mental or emotional injury or illness caused by an act or omission that was reasonably foreseeable but not intended;

(C) a mental or emotional injury or illness caused by an act or omission that was reasonably foreseeable but not intended; and

(D) punitive or exemplary damages.

(9) HEALTH CARE GOODS OR SERVICES.—The term ‘‘health care goods or services’’ includes—

(A) any medical product, any service provided by a health care provider or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings;

(B) any health care service or the provision of health care goods or services; and

(C) any civil action concerning the provision of health care goods or services, including any health care service or the provision of health care goods or services.

(10) INJURY.—The term ‘‘injury’’ means—

(A) an act or omission that results in a death or personal injury;

(B) the cost of medical, hospital, dental, or income-disability benefits; and

(C) any other non-pecuniary losses.

(11) INJURY OR WRONGFUL DEATH.—The term ‘‘injury or wrongful death’’ means—

(A) any harm caused to a person as a result of the death or personal injury of another;

(B) any harm caused to another person as a result of the death or personal injury of a person; and

(C) any other non-pecuniary losses.

(12) HEALTH CARE PROVIDER.—The term ‘‘health care provider’’ includes any person or entity required by State or Federal law or regulations to be licensed, registered, or certified, or which is exempted from such requirements by other statute or regulation.

(13) INJURY.—The term ‘‘injury’’ means—

(A) an act or omission that results in any harm; and

(B) any other non-pecuniary losses.

(14) PUNITIVE DAMAGES.—The term ‘‘punitive damages’’ means—

(A) damages for wrongful death or personal injury that are intended to punish the defendant; and

(B) any other non-pecuniary losses.

(15) PUNITIVE DAMAGES FOR HEALTH CARE LAWSUITS.—The term ‘‘punitive damages for health care lawsuits’’ means—

(A) damages for wrongful death or personal injury that are intended to punish the defendant; and

(B) any other non-pecuniary losses.

(16) PROGRAM.—The term ‘‘program’’ means any program, activity, or service that is required by Federal law to be licensed, registered, or certified, or which is exempted from such requirements by other statute or regulation.

(17) RECOVERY.—The term ‘‘recovery’’ means—

(A) damages for wrongful death or personal injury that are intended to punish the defendant; and

(B) any other non-pecuniary losses.

(18) STATE.—The term ‘‘State’’ means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(19) STATE LAW.—The term ‘‘State law’’ includes all constitutional provisions, statutes, laws, judicial decisions, rules, regulations, or other State action having the effect of law in any State.

SEC. 809. INCLUSIVE DATE; GENERAL PROVISIONS.

(a) IN GENERAL.—This title shall apply to any health care lawsuit brought in a Federal Court or Federal Court of Appeals, or Federal or State court, and to any health care liability claim subject to an alternative dispute resolution system, that is initiated or arises after the date of enactment of this Act, except that any health care lawsuit arising from an injury occurring before the date of enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

(b) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, relating to tort claims law procedure and subject matter jurisdiction in section 106, and extends to any health care lawsuits asserted in a Health Care Claims Court, or any health care lawsuit arising from an injury occurring after the date of enactment of this Act, except that any health care lawsuit arising from an injury occurring before the date of enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

(c) PROTECTION OF STATES’ RIGHTS.—Any issue that is not governed by any provision of law established by or under this title (including applicable state or Federal law) shall be governed by otherwise applicable State or Federal law. Subject to subsection (d) and section 802, this title does not preempt or supersede any law that authorizes or creates greater protections for health care providers, plans, and organizations from liability, loss, or damages that are provided by Federal law or other statutes.

(d) RULE OF CONSTRUCTION.—No provision of this title shall be construed to preemp—
(1) the implementation of any State sponsored or private alternative dispute resolution program;
(2) pursuant to section 802, any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the total amount of economic, non-economic, or punitive damages that may be awarded in a lawsuit, whether or not such State statutory limit permits the recovery of a greater or lesser amount of such damages than is provided for under section 802 or
(3) any defense available to a party in a health care lawsuit under any other provision of Federal law.

The CHAIRMAN. Pursuant to House Resolution 215, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS.)

Mr. THOMAS. Mr. Chairman, I yield myself 3 minutes. Subsequent to that I yield the balance of my time to the gentleman from California (Mr. Cox) and ask unanimous consent that he control the balance of the time.

The CHAIRMAN. Without objection, the gentleman from California (Mr. Cox) will control the balance of the time.

There was no objection.

Mr. THOMAS asked and was given permission to revise and extend his remarks.

Mr. THOMAS. Mr. Chairman, the amendment that was just passed puts a limit on the amount that can be recovered on new cases. One side of the equation has been adjusted properly. Notwithstanding the fact you can seek damages, there is a limit.

This amendment proposes to create balance, put a limit on the other side of the equation. What you see here is a quote from a letter from the American College of Surgeons to the President of the United States on February 7. It says:

If the Congress seriously entertains caps on punitive and noneconomic damages—we have just done that—we believe it would be difficult if not impossible to explain why Federal policy-makers did not at the same time address the liability exposure faced by physicians, hospitals, and other health care practitioners.

It would be unfair, the College of Surgeons said, to enact a patients’ bill of rights that caps damages for suits against health plans without capping damages for suits brought against physicians and other health care providers. This is exactly what this amendment does. It does not intrude on any State that has in place its own desired medical malpractice structure, but where there is none, this amendment will provide one unless and until the State passes its own and the State’s prerogative would then prevail. It is simply an opportunity to provide a degree of uniformity where there is none today.

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

Ladies and gentlemen of the House, we are about to pass the worst amendment on medical malpractice that has ever been brought forward to the House of Representatives. I say that carefully because the one that the Republicans brought forward in 1995 was a real doozy, but this one goes further than that one. This caps doctors and hospitals. What makes it worse than 1995 is that it extends medical malpractice protection to insurance and HMO companies. Secondly, it lowers punitive damage caps to only two times the economic damages, or $250,000, where the 1995 bill in its generosity limited it to three times economic damages, or $250,000. Third, it has new limitations on accruing interest on noneconomic damages.

Finally, it applies limitations to private settlements as well as court cases. So here in a system where each State has heretofore determined what the medical malpractice would be, what the noneconomic damages would be, what the punitive damages would be, here the majority party in this body has now determined that we are not only going to protect HMOs, we are going to cap suits against doctors and hospitals.

In a single stroke, the Thomas amendment, which is joined in by several chairmen on the other side as well, would place an antihuman and anti-civil rights amendment on the ability of the millions of persons harmed by medical negligence to recover in their own State courts. This amendment is even worse than the coverage in the Norwood amendment; and as I have said, this is the most severe version of a malpractice amendment ever considered by the House.

If it were adopted, Congress would be saying to the American people, We don’t care if you lose your ability to bear children; we don’t care if you’re forced to bear excruciating pain for the remainder of your life; we don’t care if you’re permanently disfigured or crippled, because under this amendment, a medical professional who fell asleep in the operating room and operated on the wrong patient would be completely insulated from punitive damages. The language goes so far as to cap the liability of a doctor, heaven forbid, who even rapes his patient. Do Members not know that punitive damages are the only way to deter such outrageous conduct?

The new statute of limitations takes no account of the fact that many injuries caused by malpractice or faulty drugs take year, sometimes decades, to manifest themselves. Under this proposal, a patient who is negligently infected with HIV-infected blood and develops AIDS 6 years later would be forever barred from filing a liability claim.

The so-called periodic payment provisions are nothing less than a Federal installment plan for HMOs. The bill allows insurance companies teetering on the verge of bankruptcy to delay and then completely avoid financial obligations. Have you no shame? They would have no obligation to pay interest on amounts they owe their victims.

And guess what else happens under this sweetheart deal of an amendment? The drug companies, the producers of killer devices like the Dalkon Shield, the Cooper-7 IUD, high absorbency tampons linked to toxic shock syndrome and silicone gel implants, all would have completely avoided billions of dollars in damages that had this bill been law.

Somewhere between 80 to 100,000 people die in this country each year from medical malpractice. It is the third leading cause of preventable deaths in America. If we pass this amendment, there is no question that the pain and suffering and deaths will increase. And this Congress will be to blame.

Therefore, I urge a “no” vote on the Thomas amendment.

Mr. CHAIRMAN, this ‘poison pill’ amendment represents the most far reaching and dangerous malpractice provision ever considered by the Congress, and is even worse than previous malpractice limitations passed during the
Collateral Source (804(e)—eliminates the collateral source rule by allowing defendants in medical malpractice cases to unilaterally introduce evidence of collateral source payments received or to be received by the claimant, such as health or disability insurance. In most states under the collateral source rule, a victim is unable to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Thomas amendment would turn this system on its head by allowing tortfeasors to introduce evidence of potential collateral payments owing from the insurer to the victim. This would have the effect of shifting costs from negligent health care providers at the expense of injured victims.

Limits on Punitive Damages (804(f))—caps punitive damage awards at the greater of $250,000 or two times economic damages and limits the state law standard for the award of punitive damages to intentional or “consciously indifferent” conduct; and allows for a bifurcated proceeding to determine issues relating to punitive damages. Again, the cap on punitive damages in the Thomas amendment is far worse than even the Norwood amendment, which caps punitive damages at $1.5 million. It is also more severe than previously considered malpractice amendments. Punitive damages impose punishment for outrageous and deliberate misconduct and they deter other defendants from engaging in similar behavior. Collectively, these restrictions on punitive damages are likely to completely eliminate not only the incentive for seeking punitive damages, but any realistic possibility of obtaining them. Permitting defendants to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims.

Periodic Payments (805)—grants wrongdoers the option of paying damage awards in excess of $50,000 on an “installment plan.” Congress believes that this approach is fairer to future recipients of economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Thomas proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect changed circumstances.

Elimination of Punitive Damages for FDA approved health care products—completely bans punitive damages in the case of drugs or other devices that have been approved by the FDA as a basis for immunity from punitive damages when those regulations have proven inadequate to protect patients numerous times in the past. Government safety standards, at the current level of protection, do not ensure the safety of the public. At their worst, they can become outdated, under-protective or under-enforced. Providing immunity from punitive damages to these manufacturers would eliminate the possibility of recovering these costs and would shift the burden to the injured patient. Banning punitive damages for FDA approved products will also have a disproportionate impact on women and seniors, since they make up the largest class of victims of medical malpractice.

The Thomas amendment also ignores a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury. None of these concerns will surely be present at the Federal level. And by layering a system of Federal rules on top of a two-century old system of State common law, the Thomas amendment will inevitably lead to confusing conflicts, not only within the Federal and State courts, but between Federal and State courts.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SHAW).

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

Mr. SHAW. Mr. Chairman, I rise in strong support of the Patients’ Bill of Rights and this amendment to reform malpractice.

Mr. Chairman, in the last Congress I co-sponsored the Bipartisan Consensus Managed Care Improvement Act, also known as the Dingell-Bush legislation. After our defeat on the Norwood bill, after much serious consideration, I decided to support this reform legislation, in opposition to Republican leadership, in order to send a strong message to patients and the managed care industry about the importance of addressing managed care abuses. Notwithstanding my support for the Dingell-Bush bill in 1999, I remained concerned that implementation of that bill could increase health insurance costs and expand liability to employers and health plans, and therefore voted for several less litigious substitutes last year. As a result of this, I am cosponsor of H.R. 2315, Patients’ Bill of Rights Act of 2001, which was introduced by Representative Ernie Fletcher and endorsed by President George W. Bush.

Because of my concern that the new Ganske-Dingell bill could result in a tidal wave of medical malpractice lawsuits against health plans, HMOs—and, make no mistake about it—doctors, hospitals and other health care providers, I rise in strong support of the Thom-
Yet, we know from a 1996 study of Medicare heart attack victims that the additional tests and treatments did not help or harm these Medicare heart patients. Yet the defensive medicine test increased these heart attack patient’s hospital and doctor’s bills from five to seven times. Medical malpractice premiums are also incorporated as direct Medicare costs that determine how much a doctor or hospital is paid for each Medicare patient they treat. Again, Medicare is currently paying every day for direct and indirect medical malpractice suits that do not improve the quality of health care that Medicare patients receive.

We have to remember that this is a patient’s bill of rights, so why would we want to drive up a patient’s hospital and doctor bills if the patient’s recovery is not improved? Medicare savings that would result from these medical malpractice reforms—which, as I mentioned earlier, the CBO estimated to be $1.5 billion over 10 years—could be applied to a new Medicare prescription drug benefit or to improving Medicare’s preventive health care benefits. It would not improve the quality of medical care that Medicare patients receive.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute. I just want to ask to the floor manager, the gentleman from California (Mr. Cox), if I heard him correctly when he said that this measure before us preempts no State law.

I yield to him for a yes or no response.

Mr. COX. Mr. Chairman, that is correct. Section 802 specifically states that.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. Scott), a member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, I thank the gentleman for yielding time. It is ironic that we would be dealing with entitled Patients’ Bill of Rights, we are spending all of our time stripping the patients of those rights.

There are many issues in this amendment, about 10 different issues, we have spent 20 minutes to explain them all which is about 2 minutes per issue as we strip our patients of their fundamental rights and traditional laws when they are victims of negligence.

Questions like the statute of limitations. When do you lose your right to sue? What is a reasonable amount of time before you have to file your suit or lose your rights? Two minutes is not enough time to explain that.

A cap on noneconomic damages. When you lose your sight, lose a limb, what is fair, particularly if you were nonworking, did not have any economic losses? What is fair when you suffer a situation like that? States have dealt with that. The amount in this bill is one of the lowest found anywhere in the middle of the night.

The complicated issue of joint and several liability. If everybody agrees that you have got a $100,000 case, how do you ever collect if the HMO is partly at fault, the doctor is partly at fault, maybe the nurse is, maybe the hospital, how do you ever get recovery, particularly if one of them is about to go bankrupt?

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We cannot discuss that in 2 minutes. The collateral source rule, where you have a person who has paid an insurance premium and has a benefit, who ought to get the benefit of that? Should it be the one that paid the premium, should it be Blue Cross/Blue Shield getting their money back, or should it be the one that created the damage altogether? This bill provides that out of the three, the one that created the problem gets the benefit.

The calculation of the periodic payments, that is a calculated issue. We know with lottery proceeds, you can get a lump sum or get your money strung out. You know if you get the lump sum, you only get half the money. How does this work out? Do they get to just pay half the money, or do they get to spread it out? We do not have time to show that calculation and how unfair this is.

This is not only bad policy, it is a bad process, and I would hope that we would defeat this amendment.

Mr. COX. Mr. Chairman, I yield myself 30 seconds.

Mr. CONYERS. Mr. Chairman, in fact, the purpose of this legislation is to make sure that we do not have runaway health care costs and that we have more people insured. The legislation states, and it is worth pointing out, because we have heard something slightly different here, that there will be unlimited damages paid to compensate patients for their medical injuries. Unlimited, without limit.

We are, however, putting some regulations on abuses by lawyers. For example, we want to make sure that there is a fair share rule. For example, if you cause 95 percent of the problem, you pay 95 percent of the damage. That is not the rule today.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. Davis).

Mrs. DAVIS of California. Mr. Chairman, I rise today in opposition to the Thomas malpractice amendment. I want you to know that throughout my tenure in the State legislature I supported medical malpractice reform with the gentleman from California (Mr. Thomas) that we do need to address this issue, and I am saddened that this amendment was developed in the middle of the night.

Malpractice reform is too big and too important an issue to be addressed in this hasty, unclear manner. If you want to ask any member of the State legislature over the last few years how they feel about that, I am sure they would reflect that opinion.

I am just not sure if you realize how enormous an issue it is. Do you realize that this bill would put medical malpractice cases in Federal courts for the first time? It is not a small, minor change. It is a major policy decision that should be debated on its own, rather than as a sideline discussion to another major bill.

I am pleased that the gentleman from California (Mr. Thomas) brought the letter from the AMA in case he had only read the second paragraph. I think you would have gotten a different feeling about this letter. It goes on to say, in fact, the AMA policy has long supported medical liability reform. They have in California, it is called MICRA. They appreciate the efforts. But they also say that they have expressed concerns in the past about coupling such reforms with the patients’ bill of rights. They are concerned that this amendment could interfere with the ultimate passage of meaningful patients’ rights legislation.

I spoke to a physician earlier today who said, yes, complicate it and kill it.
I hope that is not what we are trying to do here.

I know in the State assembly I tried to bring together attorneys and physicians around this matter to develop a compromise on malpractice reform. They say that the only way they can find the right answer to this important issue without bringing all the parties involved to the table.

If we want effective and responsible malpractice reform, I urge Members to vote against the Thomas amendment.

Mr. COX. Mr. Chairman, I yield myself 10 seconds to point out that the American Medical Association has strongly been in support of these reforms every year I have been in Congress, for 15 years, and their only concern, as the gentlewoman did not let on, is President Clinton, representing the trial lawyers, threatened to veto the legislation if they included the provision they wanted.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, the purpose of this amendment is to make sure that health care coverage is available and affordable to all Americans.

These medical malpractice reform provisions will benefit the American people by limiting costs to doctors, hospitals, and other health care providers, which in turn will increase access to affordable health care insurance for all. Unfortunately, the current medical malpractice litigation is a wealth redistribution lottery that benefits trial lawyers, instead of an efficient system designed to fairly compensate those injured by the wrongful acts of others.

Medical malpractice lawyers often simply target the perceived deep pockets of doctors, hospitals and insurance companies in order to access to affordable health care insurance for all. Unfortunately, the current medical malpractice litigation is a wealth redistribution lottery that benefits trial lawyers, instead of an efficient system designed to fairly compensate those injured by the wrongful acts of others.

Doctors and hospitals should be held responsible for truly negligent behavior resulting in harm to patients. However, even in cases where defendants knew a lawsuit would not succeed on its merits, but agree to settle out of court just to avoid the endless and expensive legal process. In the end, the lawyers often walk away with as much money as the plaintiff. This injustice raises the price of health care, causes unwarranted personal anguish and unfairly damages reputations.

Medical malpractice lawyers often simply target the perceived deep pockets of doctors, hospitals and insurance companies in order to access to affordable health care insurance for all. Unfortunately, the current medical malpractice litigation is a wealth redistribution lottery that benefits trial lawyers, instead of an efficient system designed to fairly compensate those injured by the wrongful acts of others.

America is the only country in the world that provides unlimited compensation for noneconomic damages. Of course, noneconomic damages are separate from and do not include payment for medical costs, lost wages and other out-of-pocket expenses. Therefore, a cap on noneconomic damages would not in any way limit the amount of money an injured plaintiff could receive for their hospital costs, doctors' bills, other medical expenses, and lost wages.

Malpractice insurance is expensive because many of the claims brought against doctors and other health care providers are lengthy and frivolous. In the year 2000, the average medical malpractice claim took more than 5 years to settle. Statistics also show that 80 percent of all medical malpractice claims do not even involve a negligent adverse event to the plaintiff. Furthermore, only one out of six plaintiffs who receive compensation from these claims present any evidence of negligent medical injury.

We also have the ever more prevalent problem of doctors practicing defensive medicine. Many doctors are ordering unnecessary and costly medical tests and procedures solely to insulate themselves from potential lawsuit and not for the medical benefit of their patients. For example, conservative estimates predict that with effective medical malpractice reform, $600 million a year would be saved in Medicare payments in just the area of preventing cardiac disease.

Let me be perfectly clear about who benefits from our current health care system. Defendants, lawyers, and their associates in America, who continue to line their pockets with each outrageous verdict or settlement. Congress’ concern should be helping improve America’s health care system, not helping the trial lawyers pursue huge settlements for cases of personal injuries, cars, boats, and country club membership.

This amendment is clearly needed if we are going to take a definitive step today to improve the health care system. The ABA supporters of the Ganske-Dingell patients’ bill of rights approach recognized this fact, as was stated by the chairman of the Committee on Ways and Means earlier tonight.

My colleagues, the choice is simple: the more dollars which are spent on medical malpractice lawsuits, insurance premiums and lawyers, the fewer dollars there are for Americans to receive quality medical care. Let us put patients’ rights ahead of lawyers’ avocare, and support this much needed amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 20 seconds to correct the gross, egregious and ought to be subject to punitive damages if we have the kinds of standards we are talking about here in the Congress in question of what this amendment is all about.

Punitive damages under this legislation are unlimited. They are not limited to $250,000. The gentleman apparently did not read the amendment. There is a base of $250,000, or twice economic damages, and emotional damages are unlimited under this legislation.

He said punitive damages also are limited for health insurance plans or HMOs. This amendment has no application to HMOs or health insurance plans. None.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a valued member of the Committee on the Judiciary.

Ms. JACKSON-LEE. Mr. Chairman, a few minutes ago this House by a party-line vote adopted the Norwood amendment which caps punitive damages at $1.5 million and caps noneconomic damages at $1.5 million.

This amendment will take both noneconomic damages, pain and suffering, loss of a limb, and say that a child who lost a limb should be compensated at only $250,000, and punitive damages should be compensated at only $250,000.

If this amendment passes, both amendments will be paid. If the bill will totally contradict itself, because in one place it will say $1.5 million and in the other place, $250,000. The attempt by the Republican majority is to kill this bill through poison pills. We must have done two contradictory amendments.

Secondly, let me point out that by capping punitive damages at $250,000, the purpose of punitive damages is to deter willful, grossly negligent misconduct. We know of companies that have calculated that they will let people die, they will put unsafe things in their cars or other things, because it is cheaper to pay the damages than to change what they are doing.

Punitive damages are designed to stop that. By limiting punitive damages to $250,000, you will get HMOs that will calculate that it is cheaper to deny medical care, cheaper to pay the economic damages, cheaper to pay the $250,000 limited punitive damages, no matter how willful, how grossly negligent, how deceitful, how willful they may be. It is cheaper to kill people and save money, because we have removed the one deterrent the law has.

This is an amendment that should never be passed. But, of course, it does not really matter, since we already killed the bill, which will never pass the Senate, by putting in the Norwood amendment. But we should not set the precedent of saying to large corporations, calculate the cost benefit. Do things that may kill or maim people if it cheaper for your bottom line.

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point about this amendment. It has nothing to do with HMOs, so he says, and the patients’ bill of rights.

This is the very point that we are making about this amendment. It is clearly a poison pill. It is the adding of a new medical malpractice issue. No matter how relevant it may be to the general discussion of medical malpractice, both Federal and State law, it has no relevance in this debate.

The real issue becomes that those who have been fighting for the medical malpractice reform have done so and have been refuted and rejected for session after session, and they use the patients’ bill of rights when we are trying to reestablish the sanctity of the patient and physician relationship to now do this.

The most egregious part of this particular amendment is the cap on noneconomic damages, for what that says is that if you have a child age 5 with the potential of growth, education and opportunity, and it is being misused. Vote this amendment down.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, as a co-sponsor of the amendment, let me first make the point that we have no economic damages, and the American Medical Association will have nothing to do with it, and they should not be misused as they are being misused. Vote this amendment down.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, as a co-sponsor of the amendment, let me first make the point that no one argues, no one can argue, that unnormally high, runaway malpractice jury awards harms our health care. First of all, it raises costs, it absolutely raises the cost of medical malpractice insurance of physicians and gets passed on to all of us.

Secondly, we all know what it does to physicians. It sends a chilling effect to physicians around the country who end up practicing defensive medicine: in fact, doing things not necessary, not required, just to protect themselves from the lawyers who might end up suing them.

Today, we can do something about it. We can pass this amendment modeled after the California law.

What is beautiful about this amendment is that not only does this amendment place some caps on those runaway malpractice awards, sometimes they make that all we pay for, but it does so in a way that does not preempt the State law. For example, if your State caps noneconomic damages at $500,000, so be it. If your State has any cap on punitive damages, then your State law in that area is preserved. If your State wants to place a $500,000 cap on punitive damages 3 years from now, it is permitted to do so under this amendment.

In short, our authors have put this amendment together in such a way that it helps a number of States restrain runaway malpractice costs and, at the same time, preserves your State’s ability to do it differently if you want to do it differently in your State.

Mr. Chairman, this is modest medical malpractice reform. We passed some recently on medical devices that were going out of business, not because they were losing lawsuits; simply because the cost of defending lawsuits was driving the companies out of the business of making things, like shunts for kids with hydrocephalic cases or limbs for children who have lost their limbs to cancer.

When we passed that medical malpractice reform a few years ago, those manufacturers went back into business. Today, we have a chance to keep our health care system in business. Pass this good amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes to first, hopefully correct the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), who asserted that lawyers were getting huge fees. All fees, most Members know, are controlled by the court. Any exorbitant fees are not permitted. And from time immemorial, lawyers get a variable amount that can rise to infinity at twice economic damages.

Second, the gentleman from Michigan stated an outrageous example. He says if a physician rapes someone, that they would somehow be shielded from liability by this amendment or some other act of Congress. What this amendment very clearly states is that anyone who specifically intends to harm has no protection in this provision. It does not apply.

Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER), the author of so much of the good work that the House and the Congress are bringing to the floor today.

Mr. FLETCHER. Mr. Chairman, as a practicing physician, the possibility of medical malpractice was always there in the back of your mind, because you wanted to make sure you delivered the most quality care you could to your patients.

I can think of generally, probably a day did not go by when there were things that you felt like, well, I do not really think we need this, but because of the way malpractice is, we are going to order a specific test. A patient that comes in with a headache, you may not see them again for a while, and you order an $800 or a $1,000 MRI just to make sure that if something happens in the future that you do not incur some sort of frivolous lawsuit.

It is a couple of things. One, according to Daniel P. Kessler, an associate professor at Stanford Business School, when he looked...
at direct costs, he said they may be relatively small, the direct costs of liability. I think clearly we can say they are fairly significant. But they are small relative to the indirect costs which he estimates five times.

For that reason and for the quality of care, I don’t believe that we do not promote defensive medicine. I urge my colleagues to support this, as most of the physicians across the country would agree.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), a lawyer, prosecutor, and former judge.

Mrs. JONES of Ohio. Mr. Chairman, as we sit here debating a Patients’ Bill of Rights, we stopped talking about the patients’ rights and started reading letters from the AMA saying, well, I do not want the doctors to be any more liable, so we are happy with the legislation.

I would suggest to those of my colleagues on this floor of this House, walk a mile in the shoes of someone who has been injured, walk a mile in the shoes of a family member who has a child that has been maimed or blinded, and you will not be talking about limits, you will want to put a cap on the court and establish my damages, and if I establish them, pay me; and if they have been negligent or extremely negligent, let me get punitive damages.

Let us get realistic. I say to my colleagues, significant Members of Congress can pass legislation that will not be questionable, that will not be left to a court to interpret. We can make it clear to the people of these United States that we are going to stand up for patients’ rights, that we are going to stand up and allow them to collect if they are damaged.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman from California for yielding time.

I would like to commend the sponsors of this amendment. I introduced bills both in the previous Congress and in this Congress that are substantially the same as this amendment, so I am grateful that we are going to have a chance to include this in legislation that is moving.

Why do we need medical malpractice reform? The simple Medical malpractice awards are out of control. Medical malpractice awards are draining millions of dollars from health care and putting it into courtrooms and trial lawyers. They are contributing significantly to the staggering increase in health care costs. They are forcing doctors to practice defensive medicine to protect themselves against, very often, meritless claims, and these awards are forcing some doctors to leave their specialties altogether.

My home State of Pennsylvania has been particularly hard hit by what is now a legal system run amok. We rank second in the Nation in medical malpractice judgments. We suffer through jury verdicts that are amongst the highest, twice the level of California, which has this kind of medical malpractice reform. As a result, doctors in my State often pay premiums that are twice the level of California, often over $100,000 per year; good doctors who have never harmed a soul, who have never been negligent.

Mr. Chairman, this is long overdue. This provision applies to all health care providers; it provides reasonable caps on the court estimates of the insidious application of joint and several liability; and that, in layman’s terms, simply means that defendants will be required to pay judgments in proportion to their responsibility, not in proportion to the thickness of their wallet.

Finally, Mr. Chairman, many of us are concerned that what we do here in Washington respect the rights of the States. This amendment does exactly that. This amendment says that if there is a State that has a medical malpractice law on the books, then that State law will prevail. If a State has no law whatsoever, then this amendment would prevail.

If a State has no law, let me then choose to pass a law, then this would become irrelevant in that State; the State law would then once again prevail. This respects States’ rights. This is going to help restore funding to health care instead of trial lawyers.

I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Chairman. I reserve my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. McCrery), a member of the Committee on Ways and Means.

Mr. McCRERY. Mr. Chairman, placing reasonable caps on medical malpractice will help us, as the gentleman from Louisiana pointed out (Mr. Tauzin), to fight health care inflation. In 1999, fully 13 percent of our gross domestic product went to health care expenses. That number will climb to almost 16 percent before this decade is over. At some point, this trend becomes unsustainable and some sort of national health care system in which politicians ration health care becomes inevitable.

Our medical malpractice system is a drag on the health care system in many ways. Dollars spent on lawyers, enormous jury awards and settlements to avoid litigation are not being spent on patient care. Data from the insurance analyst A.M. Best show that in 1996, while attorneys’ fees, the cost of expert witnesses and other court costs eat up more than half.

The fear of being sued encourages defensive medicine, just extra tests and procedures which may help insulate physicians from being sued, but do nothing for patients, other than add to their bills. The amendment before us strikes an appropriate balance. It permits States to enact their own medical malpractice laws, if they wish, but it does set a standard which will govern medical malpractice actions in States which have failed to enact their own reforms.

Finally, it is critical to remember that nothing in this amendment denies injured plaintiffs from obtaining adequate redress, including compensation for 100 percent of their economic losses, their medical costs, their lost wages, and putting it into courtrooms and trial lawyers and establishing limits on noneconomic and punitive damages.

As the American Medical Association noted in testimony in 1996, ‘‘While these can be emotionally charged issues, the fact remains that the current tort system, driven as it is by the potential for unlimited attorneys’ fees and unlimited compensation for intangible losses, is unable to resolve medical liability claims effectively and efficiently.’’

Moreover, even with the cap of a quarter of a million dollars, the United States would be the most generous country in the world in compensating for noneconomic losses.’’

This is a balanced amendment. It will do great good for our health care system in this country.

Mr. CONYERS. Mr. Chairman, I reserve my time.

Mr. COX. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. Greenwood), a member of the Committee on Energy and Commerce.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me time.

In my State of Pennsylvania, it was not very long ago that when I looked at the medical community I saw a group of folks doing pretty well. They seemed to have a nice income. They seemed to be enjoying their profession. They seemed to be on top of the world.

In the last 15 years or so I have seen a dramatic change in my doctors from the State of Pennsylvania. I have seen them hit with medical malpractice rates that are phenomenal, a 45 percent increase in the medical malpractice rates just in the last year in the State of Pennsylvania.

I knew a physician. He was a good orthopedist, one of the best. All he liked to do was get up in the morning and fix broken bones. His medical malpractice rates got so high that his daughter secretly paid his premiums for him just so he could not give up and quit. Finally, when he found out how high those premiums were, he left the State of Pennsylvania and we lost one of our finest physicians.

The doctors in my State of Pennsylvania have had it. We had to pass this medical malpractice reform law.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. Sandlin).
Mr. SANDLIN. Mr. Chairman, last night one could watch network TV or C-SPAN and by switching back and forth one could watch two shows, “Let’s Make a Deal” and “The Price Is Right.” If one listened very closely in the middle of night, one could almost hear the White House say, Come on down. You are our next contestant.

We still do not know what was behind doors 1, 2, or 3; and we are wondering what the grand prize was. We know this amendment was filed for political cover. Let us be straight about it. That being said, let us get to the facts.

All of us are concerned about the high cost of medical care. However, medical malpractice does not contribute to that. An October 1992 study of the Congressional Budget Office concluded and said:

Malpractice insurance premiums account for less than one penny of each dollar spent annually on the Nation’s health care.

A study funded by the Texas Medical Association, the Trial Lawyers’ Association, the Texas Hospital Association said:

Changing the medical professional liability system will have minimal cost savings impact on their overall health care delivery system.

Many factors contribute to increased medical costs. This is not one of them. Vote no on Thomas-Cox. It is pure politics. We know it. It is nothing more and the patients lose.

PARLIAMENTARY INQUIRY

Mr. COX. Mr. Chairman, does the minority have the right to close?

The CHAIRMAN. The gentleman from California has the right to close.

Mr. COX. Mr. Chairman, I yield myself 5 seconds to observe that this Chamber has on many occasions passed legislation of this type, and it has been scored by the Congressional Budget Office as saving $1.5 billion.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. CONYERS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The chair finds that the gentleman from Michigan is not a “manager” of the pending measure within the meaning of clause 3(c) of rule XVII. Consequently, the gentleman from California has the right to close.

Mr. CONYERS. Mr. Chairman, I thank the Chair for answering my anticipated question.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Colorado (Ms. DEGETTE).

The CHAIRMAN. The gentlewoman is recognized for 1/4 minutes.

Ms. DEGETTE. Mr. Chairman, if this amendment passes, this bill will have completed its transformation from the Patients’ Bill of Rights to the providers’ bill of rights. Make no mistake about it, under the Norwood amendment which just passed, patients will never be able to hold HMOs legally accountable because of an unreasonable burden of proof.

If this amendment is passed, patients will now not be adequately compensated for their damages that they incur as a result of malpractice by doctors or hospitals.

My colleague, the gentleman from California (Mr. COX), says incorrectly that the bill provides unlimited economic damages. But he knows as well as everybody else here that State statutes limit economic damages to actual money paid out of pocket. So if there is someone who has medical bills of $2,000 and they have noneconomic damages of $1 million, too bad. They are out of court. The only noneconomic damages they can get would be $1,000 under this amendment.

Now where will this apply? In some of the most tragic situations, loss of a limb or sight, the loss of mobility, the loss of fertility, excruciating pain and permanent and severe disfigurement, a loss of a child or a spouse. There are a number of other damages that are limited. Do not take this out on the patients. Vote no on this amendment.

Mr. COX. Mr. Chairman, I yield myself 15 seconds while they are setting up the chart to correct the misunderstanding of the gentlewoman.

She described a situation in which there were for some reason, under State law, a limit on economic damages, there is no minimum limit in this bill, and that the limit amounted to $2,000 in a case and that that would mean twice the economic damages would be a $4,000 limit under this bill. But she misunderstands it because the limit in that case would be a quarter million dollars. That is the limit that would apply, the greater, not the lesser, of twice the economic damages or a quarter million dollars.

Mr. Chairman, I will inquire how much time remains.

The CHAIRMAN. The gentlewoman from California has 2 minutes remaining.

Mr. COX. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I wish to address the Chamber from the floor because I wanted to draw attention to this chart.

This describes the situation in America today in which insurance premiums paid by all of us here in this Chamber disproportionately pay the costs of lawsuit abuse: 32.46 percent going to pay injured claimants; and 52 percent to pay attorneys, witnesses, expert witnesses, and other court expenses. That is wrong, and we are here to fix it.

There is virtually a constitutional right in America to bring a bad lawsuit, and we count on the courts to throw the bad ones out. But in the Federal system today, because the courts are so busy, 90 percent of cases never get a single day of trial.

That creates enormous opportunity for mischief, because then people can extort settlements, since everyone knows how expensive it is to wait it out and pay their lawyers while they finally might be one of the 7 percent of cases that get their day in court.

We want to adopt a “fair share” rule. We want to say that if one committed fraud or a $500 medical bill, they would pay 5 percent of the damages. Let us say that a rapist drug dealer stagers into the emergency room with a knife wound and demands, in his drug-induced haze, to be operated on, and gives the emergency room fits.

The surgeon that works on him does the best he can, but it is not perfect. The drug dealer and rapist sues. The jury finds he is 95 percent responsible for his own knife wounds, but 5 percent of the problem lies with the hospital, because the physician was working too long.

Today the hospital, us, the premium payer, can be made to pay 100 percent because the drug dealer is without means. We want a fair share rule because if one pays premiums, one should not be denied health care in that way. All of us are concerned about the high cost of medical care. However, medical malpractice does not contribute to that.

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Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.
The Speaker pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was referred to the Committee on Energy and Commerce, and the Committee on Education and the Workforce with instructions that each report the same back to the House forthwith with the following amendments.

The motion to recommit was agreed to, and the following amendments were agreed to:

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERRY moves to recommit the bill H.R. 2563 to the Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Education and the Workforce with instructions that each report the same back to the House forthwith with the following amendments.

Mr. ENGLISH changed his vote from 'aye' to 'no.'

The amendment was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BERRY) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, pursuant to House Resolution 219, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

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The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.
TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

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

TTITLE VIII—REVENUE OFFSETS
Subtitle A—Extension of Custom User Fees
Sec. 801. Further extension of authority to levy customs user fees.
Subtitle B—Tax Shelter Provisions
Part I—Clarification of Economic Substance Doctrine
Sec. 811. Clarification of economic substance doctrine.
Part II—Penalties
Sec. 821. Increase in penalty on underpayment or failure to satisfy certain common law rules.
Sec. 822. Penalty on promoters of tax avoidance schemes which have no economic substance, etc.
Sec. 823. Modifications of penalties for aiding and abetting understatement of tax liability involving tax shelters.
Sec. 824. Failure to maintain lists.
Sec. 825. Penalty for failing to disclose reportable transaction.
Sec. 826. Registration of certain tax shelters without corporate participants.
Sec. 827. Effective date.
Part III—Limitations on Importation or Transfer of Built-in Losses
Sec. 831. Limitation on importation of built-in losses.
Sec. 832. Disallowance of partnership loss transfers.

TTITLE I—IMPROVING MANAGED CARE
Subtitle A—Utilization Review; Claims; and Internal and External Appeal Provisions

SEC. 101. UTILIZATION REVIEW ACTIVITIES.
(a) Compliance With Requirements.—
(1) In General.—A group health plan, and a health insurance issuer that provides health insurance coverage shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review process that meets the requirements of this section and section 102.
(2) Use of Outside Agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

Title IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
Sec. 501. Application of requirements to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 502. Conforming enforcement for worksponsored health and cancer rights.
Subtitle B—Health Care Coverage Access Tax Incentives
Sec. 511. Expanded availability of Archer MSAs.
Sec. 512. Deduction for 100 percent of health insurance costs of self-employed individuals.
Sec. 513. Credit for health insurance expenses of small businesses.
Sec. 514. Certain grants by private foundations to qualified health benefit purchasing coalitions.
Sec. 515. State grant program for market innovation.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION
Sec. 601. Effective dates.
Sec. 602. Coordination in implementation.
Sec. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS
Sec. 701. No impact on Social Security Trust Fund.
Sec. 702. Customs user fees.
Sec. 703. Fiscal year 2002 Medicare payments.
Sec. 704. Sense of the Senate with respect to participation in clinical trials and access to specialty care.
Sec. 705. Sense of the Senate regarding fair participation in clinical research.
Sec. 706. Annual review.
Sec. 707. Definition of born-alive infant.
make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(3) ACCESS TO INFORMATION.—

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

(B) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits described in subparagraph (A) within 14 days after the date on which the request for authorization is received.

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

(C) ONGOING CARE.—

(1) CONCURRENT REVIEW.—

(A) IN GENERAL.—Subject to clause (ii), in the case of an ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone or otherwise, within 24 hours after the date of the consultation, a written notification of the termination or reduction and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

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

(2) ACCESS TO INFORMATION.—

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

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(1) PRIOR AUTHORIZATION DETERMINATION.—

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(B) ACCESS TO INFORMATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that such a determination will jeopardize the life or health of the participant, beneficiary, or enrollee (or authorized representative) or maintain or regain maximum function. Such determination shall be made in accordance
making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(b) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the participant, beneficiary, or enrollee (or authorized representative) and to access to any information in the possession of the plan or issuer to the extent necessary to allow the plan or issuer to determine whether such information is necessary to comply with the applicable timeline under such subparagraph.

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

(c) PRIOR AUTHORIZATION DETERMINATIONS.—

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

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

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

(2) Peer review of medical decisions by health care professionals.—A review of a denial of a claim for benefits that is based on a lack of medical necessity and appropriate, cost-effective, experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic) or a related non-physician health professional, who shall be selected by the participant, beneficiary, or enrollee to provide a review and shall have appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and a level of training, experience, or competence sufficient to practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(b) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and to the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that the participant, beneficiary, or enrollee involved in the initial determination.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

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

(1) REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request of such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

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

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

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

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

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with the medical exigencies of the case and as soon as possible after the date the request for the appeal is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

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

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

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

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

(1) REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request of such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may require payment of a filing fee to the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.
the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).  

(ii) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (iv) if the plan or issuer waives the internal appeals process under section 139A(a)(4).  

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

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

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

(1) IN GENERAL. —Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer’s initial decision (including the information described in section 139A(d)(3)(A)), to a qualified external review entity selected in accordance with this section.  

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

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES. —(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (2), the entity shall determine whether a request for independent medical review meets all applicable requirements.  

(B) PROCESS FOR MAKING DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall determine within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the determination is not subject to independent medical review. Such notice—  

(I) shall be written (and, in addition, may be oral as determined by the entity) in understandable language, and include a description of any further recourse available to the individual;  

(II) shall include the reasons for the determination;  

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

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

(2) INDEPENDENT MEDICAL REVIEW.—  

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

(B) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit that is the subject of the review is a medically reviewable decision, and if such denial of the claim for benefits results in a determination of the terms and conditions of the plan or coverage for which the claim was made that would be a covered benefit under the terms and conditions of the plan or coverage but for one or more of the following determinations:  

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

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

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

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

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

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

(iii) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—(A) IN GENERAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—  

(I) shall be written (and, in addition, may be oral as determined by the entity) in understandable language, and include a description of any further recourse available to the individual;  

(II) shall include the reasons for the determination;  

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

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

(B) GENERAL RULES.—(1) IN GENERAL.—The determination made by the plan or issuer under this section shall be made in compliance with the requirements of law.  

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

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

(ii) consider, but not be bound by, the definition used by the plan or issuer of “medical necessity and appropriate”, or “experimental or investigational”, or other substantially equivalent terms that are used by the plan or issuer to describe the necessary and appropriateness or experimental or investigational nature of the treatment.
(F) Determination of Independent Medical Reviewer.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

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

(iii) a recommendation to reverse or modify the denial under review, a timeframe within which the plan or issuer must make a final determination, and the conditions under which the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) Timelines and Notifications.—

(1) Timelines for Independent Medical Review.—

(A) Prior Authorization Determination.—

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

(ii) Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, enrollee, or authorized representative at any time during the process for making a determination, and a health care professional certifies, with the request, that the determinations of the reviewer described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, enrollee, or authorized representative.

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

(2) Notification of Determination.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an oral notice of the reviewer’s determination.

(3) Form of Notices.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) Compliance.—

(i) In general.—The plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer’s determination in accordance with the timeframe established by the medical reviewer.

(ii) Failure to Comply.—If the plan or issuer fails to comply with the timeframe established by the medical reviewer, the plan or issuer shall pay such penalty to the participant, beneficiary, or enrollee as is prescribed under paragraph (1)(B) with respect to a participant, beneficiary, enrollee, or authorized representative.

(iii) No penalties against certain entities.—Notwithstanding any other provisions of law, the appropriate Secretary may assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(g) Additional Recommendations.—

(1) In general.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer’s determination in accordance with the timeframe established by the medical reviewer.

(2) Failure to Comply.—

(A) In general.—If the plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure is not caused by the plan or issuer’s failure to provide reimbursement to a professional, participant, beneficiary, or enrollee who pays for the costs of such items or services, the plan or issuer shall pay such penalty to the participant, beneficiary, or enrollee as is prescribed under paragraph (1)(B) with respect to a participant, beneficiary, enrollee, or authorized representative.

(B) Penalties against Authorized Officials.—

(i) In general.—Nothing in this paragraph shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under this title, the Employee Retirement Income Security Act of 1974, including the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee, and the appropriate Secretary may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

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

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

(ii) Additional Civil Penalty.—

(1) In general.—In any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage, and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

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

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

(iii) Civil Penalty.—

(A) In general.—In addition to the determinations of an external review entity that is described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, enrollee, or authorized representative when the determination is not in accordance with the medical reviewer’s determination, and the participant, beneficiary, enrollee, or authorized representative is paid for such items or services, the plan or issuer shall pay such penalty to the participant, beneficiary, enrollee, or authorized representative as is provided under paragraph (1)(B) with respect to a participant, beneficiary, enrollee, or authorized representative.

(B) Penalties against Authorized Officials.—

(i) In general.—Nothing in this paragraph shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under this title, the Employee Retirement Income Security Act of 1974, including the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee.
right to file judicial actions to enforce rights.

(2) Qualifications of Independent Medical Reviewers.

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

(A) each independent medical reviewer meets the qualifications described in paragraph (d); and

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

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

(B) Licensure and Experience. Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

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

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

(C) is selected by the State in a manner determined under regulations;

(D) meets the independence requirements as the appropriate Secretary provides by regulation.

(C) Limitation on Plan or Issuer Selection. The institution at which the items or services involved in the denial are provided or received, the health care professional that provided the items or services involved in the denial, or the participant, beneficiary, or enrollee (or authorized representative) shall—

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

(ii) have a material familial, financial, or professional relationship with such a party; and

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

(D) Related Party Defined. For purposes of this section, the term “related party” means, with respect to any entity, an individual who—

(i) has a financial, professional, or other relationship with such a party; and

(ii) is selected by the State in a manner determined under regulations.

(E) Qualified External Review Entities. Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) shall be construed to

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

(ii) have a material familial, financial, or professional relationship with such a party; and

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

(B) S TATE AUTHORITY WITH RESPECT TO HEALTH INSURANCE ISSUERS.

(i) General. In a case involving treatment, or the provision of items or services—the appropriate Secretary shall implement procedures to—

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

(I) is not a related party (as defined in subparagraph (D));

(II) does not otherwise have a conflict of interest with such a party (as determined under regulations); or

(III) is selected by the State in a manner determined under regulations;

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

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

(ii) Limitations on Entity Compensation. (I) The entity meets such other requirements as the appropriate Secretary provides by regulation.

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

(H) QUALIFIED EXTERNAL REVIEW ENTITIES.

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.

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

(A) subject to subparagraph (C), including that it will provide information in a timely manner under subparagraph (a) and

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

(ii) LIMITATIONS ON ENTITY COMPENSATION. (I) The entity has (directly or through contracts or other arrangements) sufficient legal, financial, and professional or trade association of plans or issuers and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

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

(ii) LIMITATIONS ON ENTITY COMPENSATION. With respect to any entity that is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) LIMITATIONS ON ENTITY COMPENSATION. (I) The entity has a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.

(A) General. In the case of an independent medical reviewer meeting the requirements of paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(B) Terms and Conditions of Contract. The terms and conditions of a contract under paragraph (2) shall—

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

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

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subparagraph (C) and the conduct of an external review activity to which subparagraph (A) does not apply.

(3)אישור בקשה. בה.injected and periodically recertified under subparagraph (C) as meeting the above requirements and meets the independence requirements.

(i) The entity has (directly or through contracts or other arrangements) sufficient legal, financial, and professional or trade association of plans or issuers and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

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

(iii) The entity has provided assurances that it will provide information in a timely manner under subparagraph (a) and

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

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

(B) INDEPENDENCE REQUIREMENTS.

(i) General. Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any entity that—

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

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

(C) does not otherwise have a conflict of interest with such a party.

(ii) Limitation on Entity Compensation. (I) The entity has a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

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

(i) not exceed a reasonable level; and

(ii) not be contingent on any decision rendered by the entity or by any independent medical reviewer.
(C) Certification and recertification process.—

(1) In general.—The initial certification and recertification of a qualified external review entity shall be made under the process described in subsection (d) if the Secretary finds that the organization only certifies, or recertifies, entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(2) Process.—The appropriate Secretary shall not recognize or approve a process under clause (1) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

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

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

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

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

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

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

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

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

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

(IV) Compliance with applicable independence standards that is approved by the appropriate Secretary or organization conducting the recertification under this subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

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

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

(VII) RECERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon notice and opportunity for hearing. The Secretary or such organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

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

(X) RECERTIFICATION OR RECERTIFICATION.—The appropriate Secretary shall certify and recertify an external review entity while such entity possesses information which is sufficient to ensure the timely and efficient provision of review services.

(IX) RECERTIFICATION OR RECERTIFICATION.—(A) The information that is provided under subparagraph (D);

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

(c) the number of independent medical reviewers requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(1) Grants.—

(A) General.—

(i) In general.—The Secretary of Health and Human Services (referred to in this section as the “Secretary") shall establish a fund, to be known as the “Health Care Consumer Assistance Fund”, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) that provide information, assistance, and referral to consumers of health insurance products.

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

(A) the manner in which the State will ensure that the health care consumer assistance office referred to in subparagraph (B) will educate and assist health care consumers in accessing needed care;

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

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

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

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

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

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

(3) Disbursement of grants.—

(A) In general.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the
(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures, and protocols in accordance with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative, health care providers, group health plans, or health insurance issuers with the office and to ensure that no such information is used by the office or any State agency or official to Stagger services or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable as defined in section 164.501 of title 45, Code of Federal Regulations. The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care consumer assistance office of a State that, through contract, establishes a health care consumer assistance office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regarding the source of the individual’s health insurance coverage, in- cluding individuals covered under a group health plan or health insurance coverage of health insurance issuer, the medi- care or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Fed- eral or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

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

(i) there is a separate delineation of the funding, activities, and responsibilities of the office from the funding, activities, and responsibilities of the agency; and

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

(B) CONTRACT ENTITY.—In the case of an en- tity that enters into a contract under sub- section (a)(3), the entity shall pro- vide assurances that the entity has no con- flict of interest in carrying out the activities authorized by this paragraph and that the entity is inde- pendent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care con- consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more non- profit, independent organizations. The office shall ensure that all of the requirements of this subsection are complied with by the office.

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

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

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

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician path- ology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, then the issuer shall offer or arrange to offer to such enrollees, participants, or beneficiaries health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the coverage described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be based on the enrollment of beneficiaries unless it is paid by the health plan sponsor or group health plan through agree- ment with the health insurance issuer.

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

SEC. 112. CHOICE OF HEALTH CARE PROFES- SIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or pro- vides for provider networks which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the coverage described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be based on the enrollment of beneficiaries unless it is paid by the health plan sponsor or group health plan through agree- ment with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurer or group health plan, such time period shall occur at least annually.
qualified participating health care professional who is available to accept such individual for such care.

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

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care if provided by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall provide emergency services (as defined in paragraph (2)(B))—

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

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

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

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

(ii) by a participating health care provider without prior authorization, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 1421 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) IN GENERAL.—In this section:—

(A) EMERGENCY MEDICAL CONDITION.—The term ‘emergency medical condition’ means a medical condition manifesting itself by symptoms or medical signs sufficient to lead a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1861(s)(7) of the Social Security Act (relating to access to specialists who are appropriate to the condition of such coverage) furnishes under the plan or coverage pursuant to subsection (a)(2)(A) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the treatment plan (if any) referred to in subsection (c) with respect to the condition.

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

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

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

(C) STARTER.—The term ‘to stabilize’, with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act.

(3) ACCESS TO CERTAIN PROVIDERS.—The term ‘specialty care’ means a condition or disease otherwise requiring services of a specialist who specializes in obstetrics or gynecology.

(4) TIMELY ACCESS TO SPECIALISTS.—

(a) TIMELY ACCESS.—Nothing in paragraph (1) shall be construed—

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

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

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

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

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

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

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

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

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, provided that the health insurance issuer offers the specialty care, with respect to such condition, to the extent of such treatment and, in the case of a health plan, the plan shall ensure that such treatment is consistent with treatment for the same condition under a similar plan.

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

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

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

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

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

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

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

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

(c) TREATMENT PLANS.—(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided by a participating provider, and the participant, beneficiary, or enrollee, and

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

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

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

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

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

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

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

(c) TREATMENT PLANS.—(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided by a participating provider, and the participant, beneficiary, or enrollee, and

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

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

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

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

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

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

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

(c) TREATMENT PLANS.—(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided by a participating provider, and the participant, beneficiary, or enrollee, and

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

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

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

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

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

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

(ii) requires specialized medical care over a prolonged period of time.
described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) Construction.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage under this section.

(1) provides coverage for obstetric or gynecologic care;

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

(c) Construction.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care;

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

SEC. 117. ACCORDING TO PEDIATRIC CARE.

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

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

SEC. 117. CONTINUITY OF CARE.

(1) TERMINATION OF PROVIDER.—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated because the provider has been determined under section 1861(dd)(3)(A) of the Social Security Act at the time of such notice, or (B) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice;

(2) THE PROVIDER—

(A) notify the continuing care patient in writing that the obstetrical or gynecological care; and

(3) THE CONTINUATION.-—For purposes of this section, the term “continuing care patient” means a participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(2) TERMINATION OF PROVIDER.—

(A) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage, described in this subsection as payment in full (or, in the case described in paragraph (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

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

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

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

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

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care professional be reimbursed or paid for services rendered under such contract.

(3) The provider agrees to adhere to the terms of the contract.

(d) DEFINITIONS.—In this section—

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

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

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

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

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

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

(B) in the case of a chronic condition or condition that is an ongoing special condition (as defined in section 111(b)(2));

(4) TERMINATION.—The term “terminated” includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.
(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered or provided by a health insurance issuer or sponsor, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer—

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

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

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

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

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

(A) in the case of a prescription drug—

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

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

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

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

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

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage for a drug or medical device on the basis that such drug or device is suitable for a participant or beneficiary in a group health plan, or an enrollee under health insurance coverage, and who is an enrollee under health insurance coverage, and who meets the following conditions—

(A) the individual has a life-threatening or serious illness for which no standard treatment is effective;

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

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

(2) EXCEPTION.—Nothing in this section shall be construed as requiring a group health plan, or health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient care utilized for the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

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

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

(c) SECONDARY CONSULTATIONS.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage for services with respect to whose services coverage is otherwise provided under such plan or by such issuer, shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

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

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

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

(2) use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from providing the individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

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

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

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

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

(2) Either—

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

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

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan, and a health insurance issuer providing health insurance coverage, may not require the individual to pay a cost-sharing amount with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the clinical trial.

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

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

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

(d) APPROVED CLINICAL TRIAL DEFINED.—(1) IN GENERAL.—For purposes of this section, an approved clinical trial means a clinical research study or clinical investigation conducted by a qualified investigator who is a qualified investigator, and with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(1) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from providing the individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.
(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy for a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

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

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

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

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

(ii) of such information on an annual basis—

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

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

and

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

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

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

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

(2) PROVISION OF INFORMATION.—Information and materials to be distributed under this section shall be provided in a manner designed to be understandable by the layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(3) CLAIMS AND APPEALS.—A description of the plan or issuer’s rules and procedures pertaining to claims and appeals, a description of certain rights (including exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, requesting overpayment, and challenging an adverse benefit determination, and a description of the legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

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

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

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

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

(8) SOURCE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (as described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 712(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

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

(10) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502 of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.
ensures that the intended recipient is receiv-
ing right and of the proper software required
media, notice in printed form of such ongo-
at disclosure of such information to him or
in such form,

such form is in accordance with require-
tures, through the Internet or other elec-
tics, including primary care providers and
specialists) and facilities in connection
with the provision of health care under the
plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about
whether a specific prescription medica-
tion is included in the formulary of the
plan or issuer, if the plan or issuer uses a de-
fined formulary.

(4) URGENCY REVIEW ACTIVITIES.—A de-
scription of procedures used and require-
ments (including circumstances, timeframes, and
appeals rights) under any utilization re-
view program described in paragraphs (1) and (2)
including any drug formulary program under
section 118.

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

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

(e) RULES OF CONSTRUCTION.—Nothing in
this section shall be construed to prohibit a
participant, beneficiary, or enrollee with the
health insurance issuer, respectively, and a
Secretary, a Medicare+Choice organization,
1852(j)(4) of the Social Security Act to the
paragraph (A) of such section are met with
description in clauses (i), (ii)(I), and (iii) of sub-
section (a) described in section 1852(j)(4) of the Social
Act (42 U.S.C. 1395u(c)(2)).

Any contract provision
or agreement that restricts or prohibits med-
cations, or conditions affecting one or more
participants, benefi-
cial or enrollees; and for purposes of applying
any reference to a plan or issuer is deemed a
reference to the institutional health care pro-
vider.

A group health plan and a health insurance issuer offering health insur-
quence, shall provide for prompt payment of
claims submitted for health care services or
supplies furnished to a participant, bene-

ficiary, or enrollee with respect to benefits
covered by the plan or issuer, in a manner
that is no less protective than the provisions
of section 1822(b)(2)(B)(i) of the Social Security
Act (42 U.S.C. 1395w(a)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION RE-
VIEW AND GRIEVANCE PROCESS.—A group
health plan, and a health insurance issuer with
respect to the provision of health insur-
ance coverage, may not retaliate against a
participant, beneficiary, enrollee, or health
care professional based on their, a benefi-
cy’s, enrollee’s or provider’s use of, or
participation in, a utilization review pro-
cess or a grievance process of the plan or
issuer (including an internal or external re-
view or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY
HEALTH CARE PROVIDERS.

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

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

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

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

er.

A good faith action.—For purposes of
paragraph (1), a protected health care profes-
sional is considered to be acting in good
faith with respect to disclosure of informa-
tion or participation if, with respect to the
information disclosed as part of the action—

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

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

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

(D) subject to subparagraphs (B) and (C) of
paragraph (2), the plan or issuer has followed
reasonable internal procedures of the plan,
issuer, or institutional health care provider
established for the purpose of addressing
quality concerns before making the disclo-
sure.

(3) EXCEPTION AND SPECIAL RULE.—
SUBTITLE E—DEFINITIONS
SEC. 151. DEFINITIONS.
(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and in consultation with the appropriate private accreditation body pursuant to paragraph (2) of subsection (d) of section 1131 of the Public Health Service Act.

(c) INTERNAL PROCEDURE.—Subsection (d) of paragraph (2) shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to subsection procedures established by the body;

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(d) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination that a disclosure of internal procedures if those procedures have been made available to the professional through posting.

(e) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(f) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(g) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(h) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(i) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(j) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(k) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(l) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(m) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(n) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(o) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(p) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(q) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(r) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(s) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(t) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(u) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(v) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(w) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(x) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(y) INTERNAL PROCEDURE.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(z) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an adverse action against a protected health care professional if the plan, issuer, or provider reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

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

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through posting.

(C) INTERNAL PROCEDURE EXCLUSION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination in this subsection shall be construed to prohibit a plan or issuer from making a determination in this subsection.
(c) Determinations of Substantial Compliance.—

(1) Certification by States.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by a written statement that may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) Review.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine whether the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) Approval Deadlines.—

(i) Initial Review.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) Additional Information.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(iii) Approval.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(1) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(2) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) Difference to States.—With respect to a certification submitted under paragraph (1), the Secretary shall give due regard to the State’s interpretation of the State law involved with respect to the patient protection involved.

(D) Public Notification.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) Construction.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) Determinations.—

(A) Petition Process.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an administrative determination as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification is substantially complied with under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) Certification.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(6) Definitions.—For purposes of this section:

(1) State Law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. Exclusions.—

(a) No Benefit Requirements.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer operating in a State to—

(i) include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage;

(ii) exclude from coverage a benefit included in a plan or coverage if the plan or coverage is first offered on a community-wide basis without placing the provider at financial risk; or

(iii) make any other provision that the Secretary determines is appropriate to carry out this title. Such regulations as may be necessary or appropriate to carry out this title.

(b) Exclusion from Access to Care Managed Care Provisions for Fee-for-Service Coverage.—

(1) In General.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) Fee-for-SERVICE Coverage Defined.—

For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract with terms and conditions of the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care items or services.

SEC. 154. Treatment of Excepted Benefits.—

(a) In General.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (and added by section 402) shall not apply to excepted benefits (as defined in section 733(c)(3) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) Coverage of Certain Limited Scope Plans.—Only for purposes of applying the requirements of this title under sections 2707 through 2713 of such Act, and section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.


(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. Preservation of Protections.—

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract providing such coverage.

SEC. 157. Preservations of Protections.—

(a) In General.—The rights under this Act (including the right to maintain a civil action under any other provisions of this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) Exception.—Subparagraph (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement is entered into knowingly and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement. Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

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

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—

(a) In General.—Subpart 2 of part A of title XIX of the Public Health Service Act is amended by adding at the end the following new section:

SEC. 2707. PATIENT PROTECTION STANDARDS.—

Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under title I of such Act with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subtitle consistent with section 104 of the Bipartisan Health Service Act.

(b) Conforming Amendment.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "other than section 2707" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2722 the following new section:

SEC. 2723. PATIENT PROTECTION STANDARDS.—

Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health
insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.”.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

“SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

“(a) Agreement with States.—A State may enter into an agreement with the Secretary through a health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

“(b) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which are delegated to the Secretary.”.

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

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) Sense of Congress.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I of this Act and under the amendments made by title I of the Bipartisan Patient Protection and Affordable Care Act (other than the amendments made under section 104 of such Act).

(b) Conforming Federal Health Insurance Programs.—It is the sense of Congress that title I of the Bipartisan Patient Protection and Affordable Care Act shall not apply to Federal health insurance programs except as follows:

(1) It shall apply to any health insurance coverage (under group health plans) provided through 1 of the Federal health care plans established under section 103 of such Act, insofar as a group health plan and the Federal employee retirement income security issuer offering group health insurance coverage in connection with such a plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act) and the requirements of section 104 of such Act shall be deemed to be incorporated into this subsection.

“(b) Plan Satisfaction of Certain Requirements.—

“(1) Satisfaction of Certain Requirements Through Insurance.—For purposes of subsection (a), insofar as a group health plan provides benefits in connection with a health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan

“(2) Plan Satisfaction of Certain Requirements.—

“(A) Section 111 (relating to consumer choice option).

“(B) Section 112 (relating to choice of health care professional).

“(C) Section 113 (relating to access to emergency care).

“(D) Section 114 (relating to timely access to specialists).

“(E) Section 115 (relating to patient access to obstetrical and gynecological care).

“(F) Section 116 (relating to access to pediatric care).

“(G) Section 117 (relating to continuity of care), but only to the extent that such replacement issuer assumes the obligations of the pre-existing issuer.

“(H) Section 118 (relating to access to needed prescription drugs).

“(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

“(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomy and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

“(K) Section 134 (relating to payment of claims).”.

(b) Information.—With respect to information required in connection with such a plan, if the issuer is not liable for the failure of the issuer to provide or make available the information, it is the sense of Congress that the provider of health care professional and the beneficiary may be liable for the failure of the issuer to provide or make available such information.

“(c) Enforcement of Certain Requirements.—

“(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 133(b)(1) of the Bipartisan Patient Protection Act with respect to a health insurance coverage held by an entity (other than the Federal employee retirement income security issuer and Federal health insurance issuer) as provided in that subsection.

“(2) Information.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of title I of the Employee Retirement Income Security Act of 1974.

“(3) Enforcement.—The Secretary shall, in connection with the enforcement of the requirements imposed under this section, coordinate the enforcement of those requirements with the requirements imposed under parts 1 and 2 of title I of the Bipartisan Patient Protection Act with respect to a health insurance coverage held by an entity (other than the Federal employee retirement income security issuer and Federal health insurance issuer) as provided in that subsection.

“(4) Enforcement.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of title I of the Employee Retirement Income Security Act of 1974.”.

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

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

“SEC. 714. PATIENT PROTECTION STANDARDS.

“(a) Definitions.—In this section—

“(B) group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act) and the requirements of section 104 of such Act shall be deemed to be incorporated into this subsection.

“(b) Plan Satisfaction of Certain Requirements.—

“(1) Satisfaction of Certain Requirements Through Insurance.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act with respect to such health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan

“(2) Plan Satisfaction of Certain Requirements.—

“(A) Section 111 (relating to consumer choice option).

“(B) Section 112 (relating to choice of health care professional).

“(C) Section 113 (relating to access to emergency care).

“(D) Section 114 (relating to timely access to specialists).

“(E) Section 115 (relating to patient access to obstetrical and gynecological care).

“(F) Section 116 (relating to access to pediatric care).

“(G) Section 117 (relating to continuity of care), but only to the extent that such replacement issuer assumes the obligations of the pre-existing issuer.

“(H) Section 118 (relating to access to needed prescription drugs).

“(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

“(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomy and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

“(K) Section 134 (relating to payment of claims).

“(3) Enforcement.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of title I of the Employee Retirement Income Security Act of 1974.

“(b) Information.—With respect to information required in connection with such a plan, if the issuer is not liable for the failure of the issuer to provide or make available the information, it is the sense of Congress that the provider of health care professional and the beneficiary may be liable for the failure of the issuer to provide or make available such information.

“(c) Enforcement of Certain Requirements.—

“(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 133(b)(1) of the Bipartisan Patient Protection Act with respect to a health insurance coverage held by an entity (other than the Federal employee retirement income security issuer and Federal health insurance issuer) as provided in that subsection.

“(2) Information.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of title I of the Employee Retirement Income Security Act of 1974.

“(3) Enforcement.—The Secretary shall, in connection with the enforcement of the requirements imposed under this section, coordinate the enforcement of those requirements with the requirements imposed under parts 1 and 2 of title I of the Bipartisan Patient Protection Act with respect to a health insurance coverage held by an entity (other than the Federal employee retirement income security issuer and Federal health insurance issuer) as provided in that subsection.

“(4) Enforcement.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of title I of the Employee Retirement Income Security Act of 1974.”.
"(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.

(c) For purposes of this subsection—

(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714."

(2) Section 702(b)(3) of such Act (29 U.S.C. 1182(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7."

SEC. 714. PATIENT PROTECTION STANDARDS.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7."

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDEYS IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.

In general.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) CAUSE OF ACTION RELATING TO PROVIDER OF HEALTH BENEFITS.—

(1) In general.—In any case in which—

(A) a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a claim for benefits), breaches the duty to exercise ordinary care in making a decision—

(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage, or

(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the plan, or the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage);

or

(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or expression limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary, such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic damages and non-economic damages (not exemplary or punitive damages) in connection with such personal injury or death.

(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include medically reviewable decision.

(B) MEDICALLY REVIEWABLE DECISION.—

For purposes of this subsection, the term 'medically reviewable decision' means a denial of benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions)."

(f) TERMINATING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would be preempted under section 514.

(4) DEFINITIONS AND RELATED RULES.—

For purposes of this subsection—

(A) ORDINARY CARE.—The term 'ordinary care' means a duty the discharge of which does not include a medically reviewable decision on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination of the benefits of like kind to the claims involved.

(B) PERSONAL INJURY.—The term 'personal injury' means an injury arising out of the treatment (or failure to treat) a mental illness or disease.

(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided in such terms in section 102(e) of the Bipartisan Patient Protection Act.

(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage offered or maintained by the employer or other plan sponsor of such a plan upon review of a denial of a claim for benefits or under section 103 of such Act upon review of a denial of such a claim, the terms of the plan, if such process was not substantially in connection with the plan.

(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Bipartisan Patient Protection Act, no cause of action may arise against an employer or other plan sponsor maintaining the plan (or against an employer or a person acting within the scope of employment of such employer or other plan sponsor) for—

(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor (or against an employee of such employer or sponsor acting within the scope of employment).

(B) CERTAIN CAUSES OF ACTION PRECLUDED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act (relating to provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

(6) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS FROM LIABILITY.—

(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act (relating to provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

(B) CERTAIN CAUSES OF ACTION PRECLUDED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act (relating to provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

(C) DIRECT PARTICIPATION.—

(1) In general.—For purposes of subparagraph (B), the term ‘direct participation’ means a cause of action described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

(2) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of involvement as a mere provider of health services and who is operating within the scope of such licensure, accreditation, or certification.

(3) NON-MEDICALLY REVIEWABLE DUTY.—The term ‘non-medically reviewable duty’ means a duty the discharge of which does not include the making of a medically reviewable decision.

(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS,
Although nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor or any health insurance issuer offering health insurance coverage in connection with the plan.

(9) REQUIREMENT OF EXHAUSTION.—

(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) it if is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)), no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

(B) NECESSARY CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary.

(10) STATUTORY DAMAGES.—

(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act in whose duty it does not include making decisions on claims for benefits.

(C) LIMITATION.—Subparagraph (A) does not apply in any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

(11) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

(12) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

(13) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(A) IN GENERAL.—Notwithstanding the provisions of paragraph (5)(C)(i) of the employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker and the requirements of subsection (o)(1) for an employer or other plan sponsor—

(1) all liability of such employer or plan sponsor involved (and any employee of such employer or plan sponsor acting within the scope of employment) under this subsection is submitted to, and assumed by, the designated decisionmaker, and

(2) with respect to such liability, the designated decisionmaker shall be substituted for such employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participant or beneficiary, employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

(14) PURCHASE TO COVER LIABILITY.—Nothing in section 410 shall be construed to provide broad coverage for personal injury or death arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

(15) PREVIOUSLY PROVIDED SERVICES.—Section 410 shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with any directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act in whose duty it does not include making decisions on claims for benefits.

(16) EXCLUSION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

(A) a member of a board of directors of an employer or plan sponsor; or

(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations; shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals under consideration in a fraudulent manner for personal enrichment.

(17) REQUIREMENT FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—
‘‘(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker makes the requirements of this paragraph with respect to any participant if—

(A) such designation is in such form as may be prescribed in regulations of the Secretary,

(B) the designated decisionmaker—

(i) meets the requirements of paragraph (2), and

(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either—

(A) under section 514(d)(9)(B) and not less frequently than an- average in connection with the plan, or any

(B) evidence of minimum capital and sur- plus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by the Secretary, and maintained with the financial obligation for timely satisfying the plan, including requirements relating to the description in paragraph (1) with respect to a group health plan if the en- forcedly insure such entity against losses arising from professional liability claims, in- cluding those arising from its service as a designated decisionmaker under this part, or—

(B) evidence of minimum capital and sur- plus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part. The provisions of this subparagraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insur- ance issuer, or managed care entity.

‘‘(iii) agrees to be substituted for the em- ployer or plan sponsor (or employee) in the action and not to raise any defense with re- spect to such liability that the employer or plan sponsor (or employee) may not raise, and

‘‘(iv) where paragraph (2)(B) applies, as- sumes unconditionally all liability arising from its service as a designated decisionmaker under the plan with respect to such participant or benefici- ary only through health insurance coverage consisting of medical care to a participant or beneficiary, and shall be construed to provide) for damages in such an action which are only punitive or ex- emplary in nature.

‘‘(b) R ULES RELATING TO ERISA PR EEMPTION.—Section 514 of this Act (relating to independent external appeals procedures).

‘‘(B) in subparagraph (B), by striking ‘‘—

‘‘(C) LIMITATION ON PUNITIVE DAMAGES.—

(i) IN GENERAL.—The term ‘‘personal injury’’ means a physical injury and in- cludes an injury arising out of the treatment (or failure to treat) a mental illness or dis- ease.

(ii) EXCLUSION OF EMPLOYERS AND OTHER PL A N SPONSORS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(a)(6)(B)(i) of the Bipartisan Patient Protection Act).

(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subpara- graph (A) with respect to a group health plan (or the estate of a participant or beneficiary, State law is superseded insofar as it (relating to independent external appeals procedures).

(iv) EXCLUSION OF EMPLOYERS AND OTHER PL A N SPONSORS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(a)(6)(B)(i) of the Bipartisan Patient Protection Act).

‘‘(C) CLAIM FOR BENEFIT DENIAL.—The terms ‘‘claim for benefits’’ and ‘‘denial of a claim for benefits’’ shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act.

‘‘(D) PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(i) IN GENERAL.—The term ‘managed care entity’ means, in connection with a group health plan and subject to clause (ii), any enti- ty that is involved in the manner in which to or extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(ii) LIMITATION OF APPLICABILITY.—

(A) CAUSES OF ACTION AGAINST EMPLOYERS AND OTHER PLAN SPONSORS.—

(i) EXCLUSION OF EMPLOYERS AND OTHER PL A N SPONSORS.—

‘‘(D) PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(i) IN GENERAL.—Except as provided in this subsection and nothing in this title (includ- ing section 502) shall be construed to super- sede or otherwise alter, amend, modify, in- valid, or impair any cause of action under any law of any participant or beneficiary under a group health plan (or the state of such a participant or beneficiary) against the plan, any managed care entity in connection with the plan to recover damages resulting from per- sonal injury, if such cause of action arises by reason of a med- ically reviewable decision.

(B) MEDICALLY REVIEWABLE DECISION.

For purposes of paragraph (A), the term ‘‘medically reviewable decision’’ means a de- nial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

(C) LIMITATION ON PUNITIVE DAMAGES.—

(i) IN GENERAL.—Except as provided in clause (A), the term ‘‘punitively’’ means a cause of action described in subparagraph (A) brought with respect to a participant or ben- eficiary. State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal in- jury or death, all the requirements of the fol- lowing sections of the Bipartisan Patient Protection Act were satisfied with respect to the participant or beneficiary:

(1) Section 102 relating to procedures for initial claims for benefits and prior author- ination determinations.

(II) Section 103 of such Act (relating to internal appeals of claims denials).

(III) Section 104 of such Act (relating to independent external appeals procedures).

(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death (if applicable to the plaintiff (or any damages that have been construed to provide) for damages in such an action which are only punitive or ex- emplary in nature.

(C) CLAIM FOR BENEFIT DENIAL.—The terms ‘‘claim for benefits’’ and ‘‘denial of a claim for benefits’’ shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act.

‘‘(A) TREATMENT OF EXCEPTED BENEFITS.— Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection do not apply to certain excepted benefits.

‘‘(b) PERSONAL INJURY.—The term ‘‘per- sonal injury’’ means a physical injury and in- cludes an injury arising out of the treatment (or failure to treat) a mental illness or dis- ease.

‘‘(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

‘‘(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan; or;” and

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

‘‘(C) for the relief provided for in sub- section (n) of this section.’’;

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(A) by striking ‘‘or’’ at the end of subpara- graph (A);
the amount of copayment and limits con- ... (B) LATE MANIFESTATION—(i) In the case of a partici- ... the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries), or (ii) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries), or (iii) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and (B) shall be presented to the trier of fact. (F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proce- ... for liability with respect to a participant or ben- eficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting on behalf of such employer or plan sponsor) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an em- ployee of such an employer or sponsor acting within the scope of employment) if such cause of action was not known, by such participant or beneficiary by the latest date that such participant or beneficiary should have been made regarding the claim for benefits which was denied.

(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

(D) RULES OF CONSTRUCTION.—For purposes of this subparagraph, the term ‘direct participation’ means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

(E) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor shall not be treate-

(F) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treat-

(G) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclu-

(H) FAILURE TO REVIEW.—(i) In General.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

(I) EXPEDITED DETERMINATION.—If the exter-

(J) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii), a participant or bene-

(K) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclud-

(L) REQUIREMENT OF EXHAUSTION.—(A) IN GENERAL.—Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in the absence of a final determination by the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).
shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employee or plan sponsor pursuant to this paragraph into a contract to prevent the service of the designated decisionmaker.

(c) Treatment of Certain Trust Funds.—In connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

(10) Previously Provided Services.—

(A) In General.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

(B) Limiting Subparagraph in Paragraph (A) Shall Be Construed to—

(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results from or is the product of a beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

(iii) that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

(11) Exemption from Personal Liability for Individual Members of Boards of Directors, Joint Boards of Trustees, Etc.—Any individual who is—

(A) a member of a board of directors of an employer or plan sponsor; or

(B) a member of an association, committee, employee organization, joint board of trustees, or similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations that shall not be personally liable under this subsection for any actions that are within the scope of employment or of plan-related duties of the individual by the individual act in a fraudulent manner for personal enrichment.

(12) Choice of Law.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

(13) Limitation on Attorneys’ Fees.—

(A) In General.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney’s contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed 25% of the total amount of the plaintiff’s recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

(B) Determination by Court.—The last court to hear the initial suit shall determine the final disposition, including all appeals, of the action may review the attorney’s fee to ensure that the fee is a reasonable one.

(C) If Case is Certified—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney’s contingency fee that may be incurred for the representation of a participant or plan beneficiary (or estate of such participant or beneficiary) who brings such a cause of action.

(e) Rules of Construction Relating to Health Care.—Nothing in this title shall be construed as—

(1) affecting any State law relating to the practice of medicine or the provision of, or failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law.

(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act, or

(3) affecting any applicable State law with respect to limitations on monetary damages.

(1) No Right of Action for Recovery, Indemnity, or Contribution by Insurers Against Treating Health Care Professionals and Treating Hospitals.—In the case of any care provided, or any treatment decision made, by any health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.

(2) Effective Date.—The amendments made by this section apply to all actions that are filed on or after January 1, 2009, and to treatment decisions that are made on or after January 1, 2009.

(f) Enforcement by Secretary Unaffected.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) Agreement With State.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

(b) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title to which such authority relates.

SEC. 406. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNPAID SERVICES.

It is the sense of the Senate that the court should consider the loss of a nonwage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the time and whole replacement cost to the family.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection and Affordable Care Act to Employee Health Plans

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

“Sec. 9813. Standard relating to patients’ bill of rights.”;
and (2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section."

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

"Sec. 9814. Standard relating to women's health and cancer rights.

and (2) by inserting after section 9813 the following:

"SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

"The provisions of section 9813 (as in effect as of the date of the enactment of this Act) shall apply to group health plans as if included in this subchapter."

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. EXPANDED AVAILABILITY OF ARCHER MSAS.

(a) EXTENSION OF PROGRAM.—Paragraphs (2) and (3)(B) of section 220(i) of the Internal Revenue Code of 1986 (defining cut-off year) are each amended by striking "2002" each place it appears and inserting "2004".

(b) LIMITATION ON NUMBER OF PERMITTED ACCOUNT PARTICIPANTS.—

(1) IN GENERAL.—Subsection (j) of section 220 of such Code is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6) and by inserting after paragraph (6) the following new paragraph:

"(7) Permitted number of participating account holders.—The permitted number of participating account holders for any taxable year after 2003 shall be the smaller of—

(A) the number of Archer MSA returns filed on or before April 15 of any calendar year for which such returns are filed and are not denied by the Internal Revenue Service, or

(B) the number of Archer MSAs which are in place at the close of the calendar year in which such Archer MSAs were established or in which the Archer MSAs were established but which were not enrolled in such Archer MSAs in such calendar year.

"(2) Period of coverage.—The term 'Archer MSA return' means any return on which any Archer MSA was included under section 100(b) or any deduction is claimed under this section for any year after 2001.

"(3) Determination of whether limit exceeded for years after 2001.—

"(A) IN GENERAL.—The numerical limitation for any year after 2001 is exceeded if the sum of—

(i) the number of Archer MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

(ii) the estimate of the number of Archer MSA returns which will be filed after such date, exceeds 1,000,000.

For purposes of the preceding sentence, the term 'Archer MSA return' means any return on which any Archer MSA was included under section 100(b) or any deduction is claimed under this section.

(B) ALTERNATIVE COMPUTATION OF LIMITATION.—If the limitation under subparagraph (A) for any year after 2001 is also exceeded if the sum of—

(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such calendar year preceding July 1 (based on the reports required under paragraph (5)) for taxable years beginning in such year, exceeds 1,000,000.

(c) INCREASE IN SIZE OF ELIGIBLE EMPLOYEES.—Subparagraph (A) of section 220(c)(4) of such Code is amended by striking "50 or fewer employees" and inserting "100 or fewer employees".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) GOV STUDY.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact of Archer MSAs on the cost and availability of health insurance (especially in those areas where there are higher numbers of such accounts) and on adverse selection and health care costs.

SEC. 512. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 142(b)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the first $5,000 paid during the taxable year for health insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 513. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. SMALL BUSINESS HEALTH INSURANCE CREDIT.

"(a) IN GENERAL.—For purposes of section 45G, the employer credit amount that would otherwise be allowed is increased by a dollar amount equal to the amount equal to the product of—

(1) the employer credit percentage, times

(2) the average annual rate of such employee health insurance costs of a new health plan established by the employer for only a period beginning on the date the employer has the meaning given such term by section 9814(j)(2)(B) of such Code.

(b) LIMITATIONS.—

(1) PER EMPLOYEE DOLLAR LIMITATION.—The employer credit amount that would otherwise be allowed is limited to a dollar amount equal to—

(A) $2,000 in the case of self-only coverage, and

(B) $5,000 in the case of family coverage.

In the case of an employer who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which is equal to the ratio of such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes such a new health plan.

(d) DEFINITIONS.—For purposes of this section—

"(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

"(2) NEW HEALTH PLAN.—

"(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to its employees if—

(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the last 10 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

"(B) QUALIFIED EMPLOYEE.—"Qualified employee" means any employee of an employer if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

"(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n)."

"(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only small employers shall be taken into account.

"(C) SPECIAL RULES.—

"(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

"(E) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2010.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by adding at the end the following:

"(C) HEALTH INSURANCE CREDIT.—On the last day of the taxable year, the credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.

(c) NO CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.

(d) DEDIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following:

"(4) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45G for the taxable year which is equal to the amount of the credit determined under such section for such taxable year.

"(2) CONTROLLED GROUPS.—Persons treated as members of a controlled group (as defined in section 414(B)) are treated as members of a controlled group for purposes of this section.

"(3) DEFERRAL OF CREDIT.—For purposes of section 45G, the credit determined under section 45G is deferred to the extent the credit determined under section 45G for such taxable year exceeds $5,000.

"(4) DEDICATED ACCOUNTS.—The term 'dedicated account' means any account or trust created for the exclusive benefit of the employees described in section 45G applied under section 45G.
SEC. 514. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) In general.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

"(k) Certain Qualified Health Benefit Purchasing Coalitions.—

"(1) In general.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2622, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

"(2) Qualified Health Benefit Purchasing Coalition Distribution.—For purposes of paragraph (1)—

"(A) In general.—The term ‘qualified health benefit purchasing coalition distribution’ means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as so defined) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

"(B) Exclusions.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined) to—

"(i) purchase of real property,

"(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

"(iii) for any expense paid or incurred more than 12 months after the date of establishment of such coalition.

"(2) Termination.—This subsection shall not apply—

"(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2009, and

"(B) with respect to start-up costs of a purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

"(b) Qualified Health Benefit Purchasing Coalition.—

"(1) In general.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

"Subchapter D—Qualified Health Benefit Purchasing Coalition.

"Sec. 9841. Qualified health benefit purchasing coalition.

"SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

"(a) In general.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

"(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

"(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

"(b) Board of Directors.—

"(1) In general.—Each purchasing coalition under this section shall be governed by a Board of Directors.

"(2) Election.—The Secretary shall establish procedures governing election of such Board of Directors.

"(3) Membership.—The Board of Directors shall—

"(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but in no case shall exceed in number the total number of members if such employers request such membership.

"(B) Other Members.—The coalition, at the discretion of the Board of Directors, may be open to individuals and large employers.

"(C) Voting.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

"(4) Duties of Purchasing Coalitions.—Each purchasing coalition shall—

"(A) contract with qualified health benefit issuers to offer benefits to members, their dependents, and their beneficiaries.

"(B) enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members.

"(C) offer to members at least 1 open enrollment period of at least 30 days per calendar year.

"(D) serve a significant geographical area and market to all eligible members in that area.

"(E) carry out other functions provided for under this section.

"(5) Limitation on Requirements of Health Plans.—A purchasing coalition shall not—

"(A) establish requirements for small businesses, reinsurance pools, or high risk pools.

"(B) allow savings to be passed through. Any State law that prohibits health insurance issuers from reducing premiums for small group health insurance issued through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to exempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

"(6) State Grant Program for Market Innovation.

"(a) In general.—The Secretary of Health and Human Services (in this section referred to as the ‘Secretary’) shall establish a program (in this section referred to as the ‘program’) to award demonstration grants under the program to States and territories to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

"(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

"(2) Individual or small group market reforms.

"(3) Consumer education and outreach.

"(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

"(b) Scope; Duration.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

"(c) Conditions for Demonstration Grants.—In general.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant the Secretary—

"(1) The State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

"(2) The State will comply with applicable Federal laws;

"(3) The State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent the State wishes to focus the benefits of the program on populations that otherwise would not obtain health insurance because of such factors;

"(4) The State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may determine.

"(d) Application.—The Secretary shall not provide a demonstration grant under the program to a State unless—

"(1) The State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;
(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation of the demonstration grant period; and
(C) the Secretary determines that the demonstration grant will be used consistently with this section.

(3) Focus.—A demonstration grant proposal under section 1107 shall not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(e) Evaluation.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(f) Initial Planning Grants.—Notwithstanding the previous provisions of this section, the program under section 1107 shall provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for the initial planning grants to permit States to develop demonstration grants under the previous provisions of this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated $100,000,000 for each fiscal year beginning October 1, to remain available until expended.

(g) State Defined.—For purposes of this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act.

SEC. 602. COORDINATION IN IMPLEMENTATION.

(a) Group Health Coverage.—

(1) In General.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so amended) do not apply with respect to such sections beginning on or after October 1, 2002 (in this section referred to as the “general effective date”).

(2) Treatment of Group Health Plans.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I as so amended) do not apply to such plans.

(A) the date on which the last collective bargaining agreement relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date; but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made by section 202 shall be treated as a termination of such collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added to this Act after the date of the enactment of this Act.

(b) Individual Health Insurance Coverage.—In the case of a group health plan, the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) Treatment of Religious Nonmedical Providers.—

(1) In General.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers; or

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding whether or not to provide medical care or other related services to individuals who are covered by such plans; or

(ii) use medically based eligibility standards or criteria to decide patient access to religious nonmedical providers;

(C) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(D) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage or treatment by a religious nonmedical provider;

(E) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical provider’s medical or nursing care provided by the provider.

(2) Religious Nonmedical Provider.—For purposes of this subsection, the term “religious nonmedical provider” means a provider who provides no medical care but who provides only religious nonmedical treatment or nursing care.

(d) Transmittal of Information.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to an individual health insurance policy that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 603. SEVERABILITY.

If any provision of this Act, or the amendments made thereby, applies to the operation of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) In General.—Nothing in this Act (or any amendment made by this Act) shall be construed to alter or amend the Social Security Act (42 U.S.C. 401).

(b) Transfers.—

(1) Estimate of Secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) Transfer of Funds.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 702. CUSTOMS USER FEES.

Section 1303(b)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (39 U.S.C. 58c(j)(3)) is amended by striking “2003” and inserting “2011, except that fees may not be charged under paragraphs (9) and (10) of such section after March 31, 2006.”

SEC. 703. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) that would otherwise be sent to the Secretary of the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a contract under section 1827 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 704. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) Findings.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancers.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 46,600 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year, 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson’s disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 196,100 men will be diagnosed with prostate cancer this year.

(10) 31,500 men will die from prostate cancer this year. It is the second leading cause of cancer in men.

(11) The information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be directed towards reducing the suffering of adults and children who enroll in clinical trials.
(12) While employers and health plans should be responsible for covering the routine costs associated with federally approved or funded clinical trials, such employers and health plans cannot be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statute.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) in any situation where battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician if—

(A) that individual—

(i) has a life-threatening or serious illness for which no standard treatment is effective;

(ii) is eligible to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(B) that individual’s participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(C) either—

(i) the referring physician is a participating health care professional and has concluded that the individual’s participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual’s participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A);

(3) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2);

(4) a child with a rare cancer should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(5) a health maintenance organization’s decision that an in-network physician without a covered treatment recommended by its physician should be entitled to a fair and impartial appeal to a review organization that has not been chosen by the organization or plan that has denied the care; and

(6) patient protection legislation should not pre-empt existing State laws in States that have such laws in place regarding the selection of independent review organizations.

SEC. 706. ANNUAL REVIEW.

(a) In general.—Not later than 24 months after the general effective date referred to in section 601(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under paragraph (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective at the end of the 12-month period after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) Funding.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SEC. 707. DEFINITION OF BORN-ALIVE INFANT.

(a) In general.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"S. Person", "human being", "child", and "individual" as including born-alive infant

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of an administrative agency or administrative bureau or agency of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant born alive at any stage of development.

\"S. Person\", \"human being\", \"child\", and \"individual\" as including born-alive infant

(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother through whatever assistance, natural or artificial, is needed to bring the body of the child into the world, a body which at birth would be able to live without further assistance. "Born alive" includes every infant born alive at any stage of development.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section."

SEC. 811. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE

(a) In general.—Section 701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (j) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE, ETC.—

"(1) In general.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(b) Definition of economic substance.—For purposes of paragraph (A) of this section, a transaction has economic substance only if—

"(i) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer’s economic position, and

(ii) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(c) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the incurring of debt shall be disregarded if the transaction is not treated as having economic substance by reason of having a potential for profit unless—

"(i) the present value of the reasonably expected future tax benefits from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(ii) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(B) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the incurring of debt shall be disregarded if the transaction is not treated as having economic substance by reason of having a potential for profit unless—

"(i) the present value of the reasonably expected future tax benefits from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(ii) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(B) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B).
"(B) Artificial income shifting and basis adjustments.—The term ‘tax-indifferent party’ means any person or entity that bears a relationship to a tax avoidance strategy if any similarity to an avoidance strategy is an element of the tax treatment of items attributable to the tax shelter. The term ‘related person’ means any person who is related to the tax-indifferent party or any entity that bears a relationship to the tax avoidance strategy if any similarity to an avoidance strategy is an element of the tax treatment of items attributable to the tax shelter. The term ‘tax avoidance strategy’ means any transaction entered into in connection with the preparation of a return for the tax year. The term ‘tax shelter’ means any structure of which the purpose of the structure is the avoidance of Federal income tax.

"(C) a failure to meet the requirements of any other similar rule of law."

"(8) INCREASE IN PENALTY NOT TO APPLY IF COMPLIANCE WITH DISCLOSURE REQUIREMENT.—In the case of a tax shelter described in this subsection if the taxpayer discloses to the Secretary (as such time and in such manner as the Secretary shall prescribe) such information as the Secretary shall prescribe with respect to such tax shelter."

"(9) MODIFICATION OF THRESHOLD.—Subparagraph (A) of section 6662(d)(1)(C) of such Code is amended to read as follows:

"(A) IN GENERAL.—The term ‘tax-indifferent party’ means any person or entity that bears a relationship to a tax avoidance strategy if any similarity to an avoidance strategy is an element of the tax treatment of items attributable to the tax shelter. The term ‘related person’ means any person who is related to the tax-indifferent party or any entity that bears a relationship to the tax avoidance strategy if any similarity to an avoidance strategy is an element of the tax treatment of items attributable to the tax shelter. The term ‘tax avoidance strategy’ means any transaction entered into in connection with the preparation of a return for the tax year. The term ‘tax shelter’ means any structure of which the purpose of the structure is the avoidance of Federal income tax."

"(10) DETERMINATION OF UNDERSTATEMENTS WITH RESPECT TO TAX SHELTERS, ETC.—In any case in which there are one or more items attributable to the amount of the understatement for the taxable year which are not attributable to any tax shelter, such tax shelter shall be disregarded in determining whether any of such benefits are allowable.

"(11) TREATMENT OF AMENDED RETURNS.—Subsection (a) of section 6664 of such Code is amended by adding at the end the following new sentence: ‘For purposes of this subsection, an amended return shall be disregarded if such return is filed on or after the date the taxpayer is first contacted by the Secretary regarding the examination of the return.’"

"SEC. 821. INCREASE IN PENALTY ON UNDERPAYMENT FOR PROMOTING ABUSIVE TAX SHELTERS TO SATISFY CERTAIN COMMON LAW RULES.

(a) In General.—Section 6662 of the Internal Revenue Code of 1986 (relating to imposition of accuracy-related penalty) is amended by adding after the end the following new subsection:

"(1) IN GENERAL.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2), subsection (a) shall be applied with respect to such portion of the tax shown on the return after subtracting 40 percent from the tax shown on the return.

"(2) AMOUNT OF PENALTY.—The penalty under paragraph (1) with respect to a promoter of a tax avoidance strategy shall be applied by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(C) PENALTY ON PROMOTERS OF TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.—Any promoter of a tax avoidance strategy shall be liable for tax under subsection (a) with respect to the creation, organization, and operation of such tax shelter if such tax shelter is not described in section 6662(d)(2)(C)(III) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(d)(2)(C)(III) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(d)(2)(C)(III)."
then such person shall pay a penalty in the amount determined under subsection (b). If a standard higher than the more likely than not standard was used in any such opinion, advice, or indication, then subparagraph (A)(ii) shall be applied as if such standard were substituted for the more likely than not standard.

(b) Property Description.—Section 6701(b) of such Code (relating to amount of penalty) is amended—

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

"(3) TAX SHELTERS.—In the case of—

"(A) a penalty imposed by subsection (a)(1) which involves a return, affidavit, claim, or other document relating to a tax shelter or an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(1)(2), and

"(B) any penalty imposed by subsection (a)(2),

the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter, entity, plan, arrangement, or transaction.

(c) Referral and Publication.—If a penalty is imposed under section 6701(a)(2) of such Code (as added by subsection (a)) on any person, the Secretary of the Treasury shall—

(1) notify the Director of Practice of the Internal Revenue Service and any appropriate authority of the penalty and the circumstances under which it was imposed, and

(2) publish the identity of the person and the fact the penalty was imposed on the person.

(d) Conforming Amendments.—

(1) Section 6701(d) of such Code is amended by striking "Subsection (a)" and inserting "Subsection (a)(1)".

(2) Section 6701(e) of such Code is amended by striking "subparagraph (a)(1)" and inserting "subparagraph (a)(1)(A)".

(3) Section 6701(f) of such Code is amended by inserting ", tax shelter, or entity, plan, arrangement, or transaction" after "document" in each place it appears.

SEC. 824. FAILURE TO MAINTAIN LISTS.

Section 6708(a) of the Internal Revenue Code of 1986 (relating to failure to maintain lists of tax shelters) is amended by adding after the end of the following:

"In the case of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(1)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) by the person with respect to which there was a failure and the limitation of the preceding sentence shall not apply."
For purposes of subparagraph (C), the term ‘built-in loss’ means the excess of the adjusted basis of the property over its fair market value immediately after the contribution."

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 of such Code (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ‘‘— or unless the partnership has a substantial built-in loss immediately after such transfer.’’

(2) ADJUSTMENT.—Subsection (b) of section 734 of such Code is amended by inserting ‘‘— or with respect to which there is a substantial built-in loss immediately after such transfer’’ after ‘‘section 754 is in effect.’’

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 734 of such Code is amended by adding at the end the following new subsection:

‘‘(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes of this section, a partnership has a substantial built-in loss in respect to a partner’s interest in the partnership if the aggregate of the adjustments to the basis of partnership property determined under subparagraphs (A) and (B) of subsection (a) (as inserted by the amendment made by subsection (c)) exceeds 10 percent of the aggregate of the adjusted bases of partnership property (as determined under section 743) to which the partner has a substantial basis reduction with respect to a distribution after the date of the enactment of this Act.’’

(4) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

Mr. BERRY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECOR D.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes in support of his motion to recommit.

Mr. BERRY. Mr. Speaker, this motion to recommit is very simple. It is the underlying bill that we are considering today, H.R. 2563, the true Bipartisan Patient Protection Act, but with one important difference: The costs of the bill are entirely paid for in the motion to recommit.

The sponsors of the Bipartisan Patient Protection Act had committed ourselves to paying for the cost of the bill, and we added these pay-fors when we presented a substitute to the Committee on Rules. However, the Committee on Rules would not even let us offer this substitute.

The underlying bill, the Bipartisan Patient Protection Act, is nearly the same as the Senate-passed bill. It was a bill that was debated for 2 weeks by the Senate, not 2 hours. It was ultimately passed by the Senate in a true bipartisan majority of 59, just like a true bipartisan majority passed a similar bill here in the last Congress.

However, this motion to recommit is even better than either of those bills because it keeps our promise that nearly every Member of this House, nearly every Member that sits this evening here on this floor has promised to pay for our bills and not to raid the Medicare and Social Security trust funds.

Mr. Speaker, this is a commitment we have made to the American people, and it should be honored. The provisions to pay for the bill are good government provisions. They continue the bipartisan majority we had in the Senate, and they crack down on shambles businesses designed solely to generate tax benefits. Nothing in the recently passed bill is changed.

I want to remind my colleagues that because the Committee on Rules did not make these provisions in order, H.R. 2563 was the committee substitute the Senate passed. They didn’t do the Senate, and they crack down on shambles businesses designed solely to generate tax benefits.

Mr. Speaker, I urge the balance of my time to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, day by day, bill by bill, the surplus is washing away. The House is driving this budget straight into the Medicare trust fund.

Yesterday, it was the energy bill, with an impact on the budget, according to the Congressional Budget Office, of $33 billion over 10 years. Today it is the Patients’ Bill of Rights whose impact is $15 billion to $30 billion bought to the floor without being scored.

In each case, Democrats have offered offsets to protect the trust funds and the surplus, and in each case, Republicans spurned the offers of offsets.

So Speaker, in 2 days, this House will have whacked $40 to $50 billion out of the surplus. It is a good thing we are going home.

Mr. Speaker, let me warn Members, mid-August when we are at home, the Congressional Budget Office will complete its midyear update of the budget, and when we come back, there will be no question, the House will be in the Medicare trust fund. That is where the budget activity today has taken us, by passing bills like this and paying no heed whatsoever to the budget. Bring it up, ignore the offset.

I direct Members’ attention to this chart. This shows what thin ice the budget is now sitting on. After the energy bill last night and the defense bill we reported yesterday, there is a $12 billion bottom line remainder in fiscal year 2002. That is black.

But if we come down here to where we have estimated the August update by the Congressional Budget Office, and we have only estimated that they will take the economy down by one-half of one percentage point in the next year. Members will see that black 12 turns to red. We go from a surplus of $12 to $16 billion in deficit, meaning we are $16 billion into the Medicare trust fund. So much for the lockbox. That is not just 1 year, it is every year from now until 2011; so much so, we can get a Medicare surplus over this period of time.

Mr. Speaker, the only honest vote is for the motion to recommit, which will pay for this bill.

Mr. TAUZIN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I would say to the gentleman if we would be so foolish as to adopt this motion to recommit and pass tonight a $7.5 billion tax increase, Americans might not want us to come home.

This motion to recommit not only would put forward this $7.5 billion tax increase, but as Members know, it would undo the good work of this Congress. I urge the chairman from Georgia (Mr. NORWOOD) has done in reaching agreement on the contentious issue of liability.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, the gentleman from Louisiana (Mr. TAUZIN)
They reduce the HI trust fund. Ironically, my friends, if you want to protect the HI trust fund, vote “no” on the motion to recommit.

The SPEAKER pro tempore (Mr. BUCK). Without objection, the previous question is ordered on the motion to recommit. There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECOMMENDED VOTE

Mr. BERRY. Mr. Speaker, I demand a recorded vote.

The vote was taken by electronic device; and there were—ayes 208, noes 220, not voting 6, as follows:

AYES—208

CONGRATULATIONS AND FAREWELL TO OUR COLLEAGUE, THE HONORABLE ASA HUTCHINSON.

Mr. SNYDER. Mr. Speaker, the hour is late, but it is never too late to say good-bye and hello to a friend; good-bye to ASA HUTCHINSON, Congressman, and hello to the new head of the DEA, ASA HUTCHINSON.

ASA, we will miss you.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, I, too, want to add my accolades to the deaccolades of mine, who came in on the 65th Congress.

The gentleman from Arkansas has served with distinction the Third Congressional District of Arkansas since his election. As ASA tells it, the folks back home in Arkansas were not too impressed about this DEA nomination, until they found out that he would be the head of 9,000 employees and have offices in over 50 countries, at which point he then thought it was kind of a big deal.

ASA, of course, served with distinction on the Committee on the Judiciary, and, as of you who worked with him knew, he was thrust into an interesting role with the impeachment matter. But he has also been a leader on other issues regarding the Federal Judiciary, whether it is regarding our forfeiture laws, whether it is racial profiling, or campaign finance.

I think all of those issues, and the open mindedness that ASA brought to profiling, or campaign finance.

The gentleman from Arkansas has

The question was taken; and the yeas and nays were ordered.

The result of the vote was announced as above recorded. A motion to recommence was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS TO THE ENGROSSMENT OF H.R. 2563, BIPARTISAN PATIENT PROTECTION ACT

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2563, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 2563.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL SEPTEMBER 4, 2001 TO FILE REPORT ON H.R. 2586, NATIONAL DEFENSE AUTHORIZATION ACT, 2002

Mr. STUMP. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until September 4, 2001, to file a report to accompany the bill, H.R. 2586.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?
There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL SEPTEMBER 4, 2001, TO FILE SUPPLEMENTAL REPORT ON H.R. 2646, THE FARM SECURITY ACT OF 2001

Mr. COMBEST. Mr. Speaker, I ask unanimous consent for the Committee on Agriculture to have until 5 p.m. on September 4, 2001 to file a supplemental report to accompany H.R. 2646, the Farm Security Act of 2001.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

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PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND RECESSION OR ADJOURNMENT OF THE SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 208) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 208

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, August 2, 2001, or Friday, August 3, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Wednesday, September 5, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on any day from Thursday, August 2, 2001 through Saturday, August 4, 2001, or from Monday, August 6, 2001, through Saturday, August 11, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Wednesday, September 5, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITONAL ADJOURNMENT OF THE HOUSE TO MONDAY, AUGUST 6, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it shall adjourn to meet at noon on Monday, August 6, and when the House adjourns on Monday, August 6, it shall adjourn to meet at noon on Tuesday, August 7; and when the House adjourns on Tuesday, August 7, and on each of its successive days of meeting under this order, it shall stand adjourned until noon on each third successive day until it shall convene at 2:00 p.m. on Wednesday, September 5, 2001; unless the House sooner receives the message from the Senate transmitting its adoption of a concurrent resolution providing for the summer district work period, in which case the House, following its adoption thereof, shall adjourn pursuant to that concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. McDERMOTT. Mr. Speaker, reserving the right to object, I will ask the gentleman from Texas, the days the House will be in session, will they be pro forma sessions, no legislation will be brought up?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman has a good point; and, yes, it will be only pro forma.

Mr. McDERMOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 5, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 5, 2001.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, SEPTEMBER 5, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, September 5, 2001, for the Speaker to entertain motions that the House suspend the rules.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, September 5, 2001, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING REMOVAL OF THE MACE OF THE HOUSE AFTER ADJOURNMENT TO THE SMITHSONIAN INSTITUTION FOR REPAIRS

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 223) and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 223

Resolved. That the Sergeant at Arms of the House of Representatives is authorized and directed, on behalf of Representatives, to deliver the mace of the House of Representatives, following an adjournment of the House pursuant to concurrent resolution, to the Smithsonian Institution only for the purpose of having necessary repairs made to the mace and under such circumstances as will assure that the mace is properly safeguarded. Provided, however, that the mace shall be returned to the House of Representatives before noon on the day before the House next reconvenes pursuant to concurrent resolution or at any sooner time when so directed by the Speaker of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WISHING A GOOD RECESS PERIOD TO THE STAFF OF THE HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be the will of the House that all those kind souls and good people who staff this body have a very good recess period during the month of August.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUESTING THE PRESIDENT TO TAKE MEASURES TO FOCUS APPROPRIATE ATTENTION ON NEIGHBORHOOD CRIME PREVENTION, COMMUNITY POLICING, AND REDUCTION OF SCHOOL CRIME

Mr. ISSA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 193) requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of
school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority, and for other purposes.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. STUPAK. Reserving the right to object, but I do not intend to object, Mr. Speaker.

Mr. HOEFFEL. I introduced this resolution along with the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Pennsylvania (Mr. HOEFFEL) to emphasize the importance of crime prevention at the local level and to recognize the efforts of National Night Out.

I am pleased to say that this resolution has bipartisan support with over 64 cosponsors.

I would like to specifically thank the chairman of the Subcommittee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER); and the ranking members of the Committee on the Judiciary; and ranking member of the Subcommittee on Crime; and the leadership on both sides of the aisle in helping to bring this measure to the floor.

Our resolution calls upon the President to focus on neighborhood crime prevention, community policing programs, and reducing crime, and to issue a proclamation in support of National Night Out.

Mr. Speaker, last year over 32 million people participated in National Night Out. These 32 million people joined together and sent a message loud and clear that they don't want crime in their neighborhoods and streets and that they will keep working together until their communities are safe.

Each of us will be returning next week to our districts for the August recess. I hope you will take the opportunity to participate in a National Night Out event in their community and show the strength of our national commitment to stop crime and keep our communities safe.

Our resolution also urges President Bush to continue to focus national attention on reducing crime and to issue a proclamation in support of National Night Out, which is such an important national event. National Night Out brings communities together; and when we come together with our neighbors, our community leaders, our families, we still leave no room for crimes.

It is a testament to what we can do together, and I am proud to see the House pass this resolution in support of such a good program.

Mr. Speaker, I have introduced this resolution along with Representatives CURT WELDON and JOE HOEFFEL to emphasize the importance of crime prevention at the local level and to recognize the efforts of National Night Out.

I am pleased to say that this resolution has bipartisan support, with 64 cosponsors. I would like to specifically thank the Chairman JIM SENSENBRENNER, and Ranking Member of the Judiciary Committee, the Chairman and Ranking Member of the Crime Subcommittee, and the leadership on both sides of the aisle for their help in bringing this measure to the floor.

Our resolution calls upon the President to focus on neighborhood crime prevention, community policing programs and reducing school crime and to issue a proclamation in support of National Night Out.

National Night Out, which is coming up on August 7, is a successful national program which has received the support and commitment of every region through neighborhood and community efforts. It is a nationwide event which combines a nationally coordinated crime prevention campaign with local community groups and law enforcement organizations to take a stand against crime.

This year’s National Night Out is the 18th annual event in the campaign by National Association of Town Watch to fight crime. National Night Out has grown year after year, and now includes citizens, law enforcement agencies, civic groups, businesses, neighborhood organizations and local officials from over 2,900 communities from all 50 states and the District of Columbia, U.S. territories, Canadian cities and military bases worldwide.

Last year over 32 million people participated in National Night Out. Those 32 million people joined together and sent a message loud and clear, that they don’t want crime in their neighborhoods and streets, and that they will keep working together until their communities are safe.

I firmly believe that a focus on neighborhood and community crime prevention is essential. It is for this reason that I have long supported the COPS program in the Department of Justice, and that I am such a strong supporter of National Night Out. As a former police officer who used to fight crime on the local and state level, I can tell you these programs work. Personal involvement in one’s community, individual attention to our youth, taking responsibility for ourselves and for others, these things make a difference.

Each of you will be returning next week to your districts for the August recess. I hope you will take the opportunity to participate in a National Night Out event in your community, and show the strength of our national commitment to stop crime and keep our communities safe.

Our resolution also urges President Bush to continue to focus national attention on reducing crime, and to issue a proclamation in support of National Night Out, which is such an important national event.

National Night Out brings communities together; and when we come together with our neighbors, our community leaders, our families, our unity leaves no room for crimes. It is a testament to what we can do together—and I am proud to say that the House pass this resolution in support of such an important program.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 139

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at preventing crime, and the participation of volunteers in crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation’s war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas crime and violence in schools is of continuing concern to the American people due to the recent high-profile incidents that have resulted in fatalities at several schools across the United States;

Whereas community-based programs involving law enforcement, school administrators, teachers, parents, and local communities work effectively to reduce school violence and crime;

Whereas citizens across the United States will soon take part in National Night Out, a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend their evening from 7 to 10 o'clock on August 7, 2001, with their neighbors in front of their homes with their lights on; and

Whereas schools that turn their lights on from 7 to 10 o'clock on August 7, 2001, will send a positive message to the participants of “National Night Out” and show their commitment to reduce crime and violence in schools; Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideas of “National Night Out”; and

(2) requests that the President—

(A) issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for National Night Out; and

(B) focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority.

The resolution was agreed to. A motion to reconsider was laid on the table.

MOURNING THE DEATH OF RON SANDER, WELCOMING THE RELEASE FROM CAPTIVITY OF ARNIE ALFORD, STEVE DERRY, JASON WEBER, AND DAVID BRADLEY, AND SUPPORTING EFFORTS TO COMBAT SUCH TERRORISM

Mr. BALLenger. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 119) mourning the death of Ron Sander at the hands of terrorist kidnappers in Ecuador and welcoming the release from captivity of Arnie Alford, Steve Derry, Jason Weber, and David Bradley, and supporting efforts by the United States to combat such terrorism and ask for the immediate consideration in the House.

The Clerk read the title of the concurrent resolution.
The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALDEN of Oregon. Mr. Speaker, reserving the right to object, I yield to the gentleman from North Carolina (Mr. BALLenger), the manager of the bill.

Mr. BALLenger. Mr. Speaker, on October 12, 2000, 10 men, including five Americans, were abducted from an Ecuadorian oil field. On January 31, 2001, Ron Sander of Sunrise Beach, Missouri, was brutally murdered by his captors.

The hostages spent 141 days in captivity and endured malnutrition, isolation, and physical and mental abuse. Each day was spent marching at gunpoint through the unforgiving jungles of South America, and each night was spent tied up in the terrorists' camps. The diet that sustained the men was at best cruel as their surroundings: small portions of rice and occasionally the meat of rodents. The perseverance shown by these brave Americans in the face of such unremitting adversity is a testament to the human spirit.

Mr. Speaker, the fear of death hung over the heads of these hostages every day of their ordeal. Sadly, on January 31 of 2001, that fear became a reality when one of the hostages, Ron Sander, was murdered by his captors. His body was discovered riddled with bullets, a brutal act intended to encourage the employers of the hostages to meet the kidnappers' demand.

Finally, the nightmare came to an end when the hostages were released from their captivity and handed over to Ecuadorian military authorities. Mr. Speaker, the purpose of this resolution first and foremost is to welcome the safe return of our fellow citizens and to mourn the death of Ron Sander, an innocent victim of the greed and malice of cowards.

The resolution also recognizes the cooperation of the Ecuadorian authorities who provided invaluable assistance in negotiating the safe return of the hostages.

It further acknowledges the employers of the victims, Erickson Air-Crane, Schlumberger Ltd., and Helmerich & Payne, whose commitment to their employees during this ordeal was absolute and unwavering.

The resolution reiterates the United States' commitment to securing justice for the victims of this crime and holding the terrorists accountable for their actions. It also expresses the sense of Congress that the United States must redouble its efforts to prevent future kidnappings and eliminate the threat presented by international terrorist organizations.

Mr. Speaker, in closing, I want to add that I could not be more pleased at the arrest of a number of suspects in this case by the Colombian National Police on June 23. Working in concert with U.S. authorities, the Colombia police arrested 59 people, including eight men accused of participating in this October kidnapping.

It is my profound hope that if these are in fact guilty of this hideous crime, that they will receive swift and severe punishment that they so richly deserve.

Mr. Speaker, I thank the Committee on International Relations for moving on this resolution with such great haste, and I appreciate the time of the House to share this.

I withdraw my reservation of objection.

Mr. Speaker, the SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 89
Whereas Ron Sander of Sunrise Beach, Missouri, one of ten men abducted from an Ecuadorian oil field on October 12, 2000, was brutally murdered by his terrorist captors on January 31, 2001;
Whereas Arnie Alford, Steve Derry, and Jason Weber, of Gold Hill, Oregon, and David Bradley of Casper, Wyoming, were among the ten men abducted;
Whereas the kidnapped men endured inhuman treatment at the hands of their captors, suffering from malnutrition, isolation, and physical and mental abuse;
Whereas the Government of Ecuador provided invaluable assistance in seeking the safe release of the hostages; and
Whereas the employers of the hostages, Erickson Air-Crane, Schlumberger Ltd., and Helmerich & Payne, maintained a tireless commitment to their employees and their families during protracted negotiations with the terrorists. Now, therefore, be it
Resolved by the House of Representatives (the Senate concurring), That
(1) the Congress welcomes the safe return of American citizens Arnie Alford, Steve Derry, Jason Weber, and David Bradley from captivity by terrorists in Ecuador and congratulates them for their perseverance in the face of persistent and unremitting adversity;
(2) the Congress extends its deepest sympathy to the family of Ron Sander, who was killed by terrorists in Ecuador, and salutes his steadfast courage under the most difficult of circumstances;
(3) the Congress supports the commitment of the United States, through the United States Agency for International Development and the Department of State, to bring to justice those responsible for the kidnapping of Ron Sander and the kidnappers of Arnie Alford, Steve Derry, Jason Weber, and David Bradley; and
(4) it is the sense of the Congress that the United States must redouble its efforts to prevent future kidnappings by working in
APPACHIAN REGIONAL DEVELOPMENT ACT REAUTHORIZATION

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 2501) to reauthorize the Appalachian Regional Development Act of 1965, and ask for its immediate consideration in the House.

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Ohio, the chairman of the subcommittee, for an explanation of the bill.

Mr. Speaker, I want to thank the ranking member of the Subcommittee on Economic Development, Public Buildings and Emergency Management of the Committee on Transportation and Infrastructure, the gentleman from Illinois (Mr. COSTELLO); the ranking member of our full committee, the gentleman from Minnesota (Mr. OBERSTAR); the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for their diligent attention to this very important program, and two Members of our subcommittee to whom this program is critical, the gentleman from Ohio (Mr.NEY) and the gentlewoman from West Virginia (Mrs. CAPITO), a valuable new member of the subcommittee, who worked tirelessly to assist us in this reauthorization.

I support the bill and thank the gentleman from Illinois.

Mr. Speaker, I yield to the gentlewoman from West Virginia (Mrs. CAPITO), a valuable new member of the full committee, for her reservation of objection.

Mr. Speaker, I yield to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank also the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Alaska (Mr. YOUNG), the chairman of our committee; and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. COSTELLO), for all their hard work on reauthorizing the Appalachian Regional Commission.

As a West Virginian native, I am especially grateful to the ARC for its commitment to improving the lives of few Mountain dwellers. As my colleagues may know, West Virginia is the only State that is entirely within the boundaries of the ARC.

The Appalachian Regional Commission is critical to the continued economic development not only of my State, but the whole of Appalachia. The area served by the ARC is very diverse, both economically and geographically. And while we have made progress in recent years, we continue to face numerous challenges.

ARC’s assistance helps level the playing field and gives my constituents a chance to compete and share in the economic prosperity that has for so long left many of us behind. The flexibility and diversity of its programs enable local communities to tailor the ARC grants to their individual needs.

In the district I represent, 11 counties are classified by the ARC as economically distressed. And I have seen firsthand the positive impact that these grants can have on a community. In my district alone, the ARC has assisted with equipping industrial parks, has helped improve the skills of the workforce, and preserved precious jobs by strengthening industries ranging from wood products to Internet technology.

The ARC is also instrumental at meeting energy funding requests to assist rural communities with their most desperate situations. Recently, the town of Wardensville contacted me regarding the need for immediate assistance for a damaged sewer. I contacted the ARC and was able to secure the necessary funding which allowed the town to repair the damage rather quickly.

Mr. Speaker, it is imperative for the Congress to reauthorize the ARC. A 5-year reauthorization will ensure that ARC continues to address my home State of West Virginia’s needs. It would also enable the commission and our local communities to develop and implement long-term strategies for economic growth with a new emphasis on technology.

I fully support this request, and I thank the gentleman for yielding to me.

Mr. COSTELLO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. OBERSTAR. Mr. Speaker, the Transportation and Infrastructure Committee has voted a significant amount of time to reviewing and evaluating the Appalachian Regional Commission (ARC) and its programs. In 1997, the Economic Development Subcommittee held a series of hearings regarding not only the ARC but also the Economic Development Administration, and in 1998, both agencies were reauthorized with broad bipartisan support.

The ARC received overwhelming bipartisan support for one self-evident reason—ARC programs WORK. These essential programs have significantly boosted employment, population growth, and income throughout the region. Despite more than 35 years of effort, we are only halfway home—the region has not yet pulled itself up to the national average. Of ARC’s 406 counties, 118 counties remain severely economically depressed. And while a series of decline years cannot be overcome in only 35 years. Much work remains to be done, and new initiatives need to be considered, not only to maintain the existing economic foothold in the region, but also to help it prepare for the new economy.

H.R. 2501 is certainly another step in the right direction for the people of Appalachia. The bill authorizes the ARC for five years, it establishes a coordinating council to address Federal agency program delivery for the region, and it increases funding consistent with inflation. The bill also establishes a telecommunications program and authorizes $10 million for this new initiative in fiscal year 2002 and some sums as may be necessary in succeeding years. The new information highway is just as important in opening up opportunities for people of the Appalachian region as is the Appalachian Development Highway System; the telecommunications program will help put the people of Appalachia on the highway of the future.

Mr. Speaker, I thank Subcommittee Chairman LATOURETTE, Ranking member COSTELLO, and Chairman YOUNG for their diligent work on this bill. For Chairman YOUNG and Ranking Member COSTELLO the problems of Appalachia are very similar to the problems confronting regions in Alaska and the Mississippi Delta. The Denali Commission and Delta Regional Authority have worked closely with the ARC to the benefit of each of the regions and the Nation as a whole.

I strongly support the bill and urge its passage.

Mr. COSTELLO. Continuing my reservation of objection, Mr. Speaker, I yield to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank also the gentleman from Ohio (Mr. LATOURETTE); the gentleman from Alaska (Mr. YOUNG), the chairman of our committee; and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. COSTELLO), for all their hard work on reauthorizing the Appalachian Regional Commission.

As a West Virginian native, I am especially grateful to the ARC for its commitment to improving the lives of few Mountain dwellers. As my colleagues may know, West Virginia is the only State that is entirely within the boundaries of the ARC.

The Appalachian Regional Commission is critical to the continued economic development not only of my State, but the whole of Appalachia. The area served by the ARC is very diverse, both economically and geographically. And while we have made progress in recent years, we continue to face numerous challenges.

ARC’s assistance helps level the playing field and gives my constituents a chance to compete and share in the economic prosperity that has for so long left many of us behind. The flexibility and diversity of its programs enable local communities to tailor the ARC grants to their individual needs.

In the district I represent, 11 counties are classified by the ARC as economically distressed. And I have seen firsthand the positive impact that these grants can have on a community. In my district alone, the ARC has assisted with equipping industrial parks, has helped improve the skills of the workforce, and preserved precious jobs by strengthening industries ranging from wood products to Internet technology.

The ARC is also instrumental at meeting energy funding requests to assist rural communities with their most desperate situations. Recently, the town of Wardensville contacted me regarding the need for immediate assistance for a damaged sewer. I contacted the ARC and was able to secure the necessary funding which allowed the town to repair the damage rather quickly.

Mr. Speaker, it is imperative for the Congress to reauthorize the ARC. A 5-year reauthorization will ensure that ARC continues to address my home State of West Virginia’s needs. It would also enable the commission and our local communities to develop and implement long-term strategies for economic growth with a new emphasis on technology.

I fully support this request, and I thank the gentleman for yielding to me.

Mr. COSTELLO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

(a) SHORT TITLE.—This Act may be cited as the “Appalachian Regional Development Reauthorization Act of 2001”.

(b) AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

SEC. 2. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

Section 104 (40 U.S.C. App.) is amended—

(1) by striking the section heading and all that follows through “The President” and inserting the following:

“SEC. 104. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

“(a) LIASION BETWEEN FEDERAL GOVERNMENT AND COMMISSION.—The President; and

“(b) INTERAGENCY COORDINATING COUNCIL.—In carrying out subsection (a), the President shall establish an interagency council to be known as the Interagency Coordinating Council on Appalachian Development, consisting of—

“(1) a Chairperson of the Council; and

“(2) representatives of Federal agencies that carry out economic development programs in the Appalachian region.”

SEC. 3. TELECOMMUNICATIONS AND TECHNOLOGY.

The Act (40 U.S.C. App.) is amended by inserting after section 202 the following:

“SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY.

“(a) IN GENERAL.—In order to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunications services to compete in the technology-based economy, the Commission may provide technical assistance and grants to encourage and support consortia and otherwise provide funds for the purposes—

“(1) to increase affordable access to advanced telecommunications in the region;

“(2) to provide education and training for people, businesses, and governments in the region in the use of telecommunications technology;

“(3) to develop relevant technology readiness programs for industry groups and businesses in the region;

“(4) to support entrepreneurial opportunities in information technology in the region;

“(b) SOURCES OF FUNDING.—Assistance provided under this section may be provided entirely from funds made available to carry out this section or in combination with funds available under a Federal grant-in-aid program (as defined in section 214(c), or another Federal program, or from any other source.

“(c) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share in a Federal grant-in-aid program or other Federal program, funds appropriated to carry out this section may be used to increase such Federal share as the Commission determines appropriate.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006. Such sums shall remain available until expended.”

SEC. 4. PROGRAM DEVELOPMENT CRITERIA.

(a) ELIMINATION OF GROWTH CENTER CRITERIA.—Section 234(a)(1) (40 U.S.C. App.) is amended—

(1) by striking the section heading and all that follows through “growth or”;

(2) by striking “or any other Act.);”;

(b) DISTRESSED COUNTIES AND AREAS.—Section 224 (40 U.S.C. App.) is amended by adding at the end the following:

“(d) ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—There are authorized to be appropriated, at least one-half of the amount of grant expenditures approved by the Commission under this Act shall support activities or projects that benefit counties for which distressed county designations are in effect under section 226.”

SEC. 5. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A) (40 U.S.C. App.) is amended by inserting “(or 75 percent for a development district that includes 1 or more counties for which a distressed county designation is in effect under section 226)” after “50 percent”.

SEC. 6. ADDITION OF COUNTIES TO APPALACHIAN REGION.

Section 403 is amended—

(1) by striking “Cumberland,”,

“(b) APPALACHIAN DEVELOPMENT DISTRICT.—In carrying out subsection (a), the President shall establish an Appalachian Regional Development district that includes 1 or more counties, or any other program that carries out advanced telecommunications in the region.

“(c) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share in a Federal grant-in-aid program, is authorized by this Act an amendment or repeal is expressed in any other Act, or any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this Act or any other Act.;”

SEC. 7. TECHNICAL AMENDMENTS.

(a) STRATEGIES.—The Act (40 U.S.C. App.) is amended—

(1) in the third sentence of section 101(b) by striking “implementing investment program” and inserting “strategy statement”; and

(2) in section 225—

(A) in subsection (a) by striking “(3) describe the development strategy;” and

(B) subsection (c) by striking “Appalachian State development programs and inserting “Appalachian State development strategies”;

(3) in section 303—

(A) in the section heading by striking “INVESTMENT PROGRAMS” and inserting “STRATEGY STATEMENTS”; and

(B) by striking “implementing investment program” each place it appears and inserting “strategy statement”; and

(C) by striking “implementing investments programs” and inserting “strategy statement”.

(b) SUPPORT OF LOCAL DEVELOPMENT DISTRICTS.—Section 102(a)(5) (40 U.S.C. App.) is amended by inserting “and support” after “formation.”

(c) OFFICE SPACE LEASING.—Section 106(7) (40 U.S.C. App.) is amended by striking “for any term expiring no later than September 30, 2001.”

(d) SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.—Section 214 (40 U.S.C. App.) is amended—

(1) in subsection (a) by striking the third sentence;

(2) by striking subsection (c) and inserting the following:

“(c) FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—

“(1) Included Programs.—In this section, the term ‘Federal grant-in-aid programs’ means those Federal grant-in-aid programs authorized by this Act or another Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts:

“(A) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(B) The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.);

“(C) Title VI of the Public Health Services Act (42 U.S.C. 291 et seq.);


“(E) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.);


“(G) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

“(H) Sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 and 3149); and

“(I) Title I of the HOPE and Community Development Act of 1974 (42 U.S.C. 5301 et seq.);

“(2) Excluded Programs.—In this section, the term ‘Federal grant-in-aid programs’ does not include—

“(A) the program for the construction of the development highway system authorized by section 201 or any program relating to highway or road construction authorized by title 23, United States Code; or

“(B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this Act or any other Act.;”

(3) by striking subsection (d).

(e) PROGRAM DEVELOPMENT CRITERIA.—Section 224(a)(2) (40 U.S.C. App.) is amended by striking “per capita income” and inserting “per capita market income”.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 401(a) (40 U.S.C. App.) is amended to read as follows:

“(a) IN GENERAL.—In addition to amounts authorized by section 201 and any other Act.

(1) $78,000,000 for fiscal year 2002;

(2) $80,000,000 for fiscal year 2003;

(3) $85,000,000 for fiscal year 2004;

(4) $85,000,000 for fiscal year 2005; and

(5) $87,000,000 for fiscal year 2006.”

SEC. 9. TERMINATION.

Section 405 (40 U.S.C. App.) is amended by striking “2001” and inserting “2006”.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LAFOURRANTE

Mr. LAFOURRANTE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

 deleting in the nature of a substitute offered by Mr. LaTourette

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

(a) SHORT TITLE.—This Act may be cited as the “Appalachian Regional Development Reauthorization Act of 2001”.

(b) AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a
SEC. 2. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

Section 104 (40 U.S.C. App.) is amended—
(1) by striking the section heading and all that follows through the President and inserting the following:

"SEC. 104. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

(a) Liaison Between Federal Government
and Commission.—The President; and
(b) by adding at the end the following:

(1) In General.—In carrying out subsection (a), the President shall establish an interagency council to be known as the "Interagency Coordinating Council on Appalachia".

(2) Membership.—The Council shall be composed of—
(A) the Federal Cochairman, who shall serve as Chairperson of the Council; and
(B) representatives of Federal agencies that carry out economic development programs in the Appalachian region.

SEC. 3. TELECOMMUNICATIONS AND TECHNOLOGY.

The Act (40 U.S.C. App.) is amended by inserting the following:

"SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY.

(a) In General.—In order to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunications services to compete in the technology-based economy, the Commission may provide technical assistance and make grants, enter into contracts, and otherwise provide funds for the following purposes:

(1) To increase affordable access to advanced telecommunications in the region.

(2) To provide education and training for people, businesses, and governments in the region in the use of telecommunications technology.

(3) To develop relevant technology readiness programs for industry groups and businesses in the region.

(4) To support entrepreneurial opportunities in information technology in the region.

(b) Sources of Funding.—Assistance provided under this section may be provided entirely from appropriations made available to carry out this section or in combination with funds available under a Federal grant-in-aid program (as defined in section 214(c)), under another Federal program, or from any other source.

(c) Federal Share Limitations Specified in Other Laws. —Notwithstanding any provision of law limiting the Federal share in a Federal grant-in-aid program or other Federal program, funds appropriated to carry out this section may be provided on a cost-sharing basis to increase such Federal share, as the Commission determines appropriate.

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006. Such sums shall remain available until expended.

SEC. 4. PROGRAM DEVELOPMENT CRITERIA.

(a) Elimination of Growth Center Criteria.—Section 202(a)(4) (40 U.S.C. App.) is amended by striking "an area determined by the State have a significant potential for growth in".

(b) Designated Counties and Areas.—Section 224 (40 U.S.C. App.) is amended by adding at the end the following:

"(d) Assistance to Designated Counties and Areas.—For each fiscal year, at least one-half of the amount of grant expenditures approved by the Commission under this Act shall support activities or projects that benefit severely and persistently distressed counties or areas.

SEC. 5. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A) (40 U.S.C. App.) is amended by inserting "(or 75 percent for a development district that includes 1 or more counties for which a distressed county designation is in effect under section 226)" after "90 percent.

SEC. 6. ADDITION OF COUNTIES TO APPALACHIAN REGION.

Section 103 (40 U.S.C. App.) is amended—
(1) in the third undesignated paragraph, relating to Kentucky—
(A) by inserting "Edmonson," after "Cumberland;"
(B) by inserting "Harlan," after "Muhlenberg;" and
(C) by inserting "Metcalfe," after "Menifee;"

(2) in the fifth undesignated paragraph, relating to Mississippi—
(A) by inserting "Grenada," after "Clay;"
(B) by inserting "Montgomery," after "Monroe;" and
(C) by inserting "Panola," after "Oktibbeha Pontotoc;"

SEC. 7. TECHNICAL AMENDMENTS.

(a) Strategies.—The Act (40 U.S.C. App.) is amended—
(1) in the second sentence of section 101(b) by striking "implementing investment program" and inserting "strategy statement;"

(2) in section 225—
(A) in subsection (a) by striking "describe the development program" and inserting "describe the development strategies;" and
(B) in subsection (c) by striking "Appalachian State development programs" and inserting "Appalachian State development strategies;" and

(3) in section 303—
(A) in the section heading by striking "Investment Programs" and inserting "Strategy Statements;"

(B) by striking "implementing investment program" each place it appears and inserting "strategy statement;" and

(C) by striking "implementing investments programs" and inserting "strategy statements."

(b) Support of Local Development Districts.—Section 102(a)(5) (40 U.S.C. App.) is amended by inserting "and" after "formation;"

(c) Office Space Leasing.—Section 106(e) (40 U.S.C. App.) is amended by striking "for any term expiring no later than September 30, 2001".

(d) Supplements to Federal Grant-in-Aid Programs.—Section 214 (40 U.S.C. App.) is amended—
(1) in subsection (a) by striking the third sentence;

(2) by striking subsection (c) and inserting the following:

"(c) Federal Grant-in-Aid Programs Defined.—

(1) Included Programs.—In this section, the term "Federal grant-in-aid programs" means those Federal grant-in-aid programs authorized by this Act or another Act for the acquisition or development of land, the construction or equipment of facilities, or other purposes or activities, for or in the Appalachian region.

(2) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)

(3) The watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.)

(4) The Title VI of the Public Health Services Act (42 U.S.C. 291 et seq.)


(6) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 601 et seq.)

(7) The Consolidated Farm and Rural Development Act (7 U.S.C. 502 et seq.)

(8) Sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 and 3149)

(9) Title I of the Appalachian Regional Development Act of 1974 (42 U.S.C. 5301 et seq.)

(2) Excluded Programs.—In this section, the term "Federal grant-in-aid programs" does not include—

(A) the program for the construction of the development highway system authorized by section 201 or any program relating to highway or road construction authorized by title 23, United States Code; or

(B) any other program for which loans or other types of Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act; and

(3) by striking subsection (d).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 401(a) (40 U.S.C. App.) is amended to read as follows:


(a) In General.—In addition to amounts authorized by section 201 (and other amounts made available for the Appalachian development highway system program) and section 202 (and other amounts authorized by section 203, 204, and 205), there are authorized to be appropriated to the Commission to carry out this Act—

(1) $78,000,000 for fiscal year 2002; and

(2) $80,000,000 for fiscal year 2003; and

(3) $83,000,000 for fiscal year 2004; and

(4) $85,000,000 for fiscal year 2005; and

(5) $87,000,000 for fiscal year 2006.

SEC. 9. TERMINATION.

Section 405 (40 U.S.C. App.) is amended by striking "2001" and inserting "2006.

Mr. LATOURETTE (during the reading).

Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was then ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THURGOOD MASHALL UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 988) to facilitate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?
Mr. COSTELLO. Mr. Speaker, reserving the right to object, I strongly support H.R. 988, a bill to name the Federal courthouse at 40 Centre in New York City in honor of former Supreme Court Justice Thurgood Marshall, one of our nation's greatest heroes. I thank the gentleman from New York (Mr. ENGEL) for introducing this bill and for his steadfast support of this legislation, and the chairman, the gentleman from Ohio (Mr. LA TOURETTE), for his support in moving this bill through the committee and to the floor this evening.

The contributions of Judge Thurgood Marshall are legendary. His dedication and devotion to the ideals of equality and dignity for all people were of historical proportions.

Mr. Speaker, further reserving my right to object, I yield to the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I strongly support H.R. 988, to name the U.S. Courthouse at 40 Centre Street in New York City in honor of former Supreme Court Justice Thurgood Marshall. The naming of the federal courthouse after Justice Marshall is a fitting tribute to one of the most important lawyers and Justices in American history.

During his arguments as attorney for the plaintiff in the landmark case of Brown v. Board of Education, Marshall was asked to define "equal" by Justice Frankfurter. Marshall responded that: "Equal means getting the same thing, at the same time, and in the same place." This statement encapsulates Justice Marshall's values and what he tried to achieve during a lifetime of fighting for those who were unable to fight for themselves.

Justice Marshall's long journey took him from a humble beginning as the grandson of a slave in a time and place where segregation and racism were strong barriers, and ended with him becoming the first black Justice of the Supreme Court. This great accomplishment was not only easily achieved, and, indeed, was made possible in large part by the changes in society and law that were created by Marshall's own victories against racial inequities.

Although he finished near the top of his undergraduate class, Justice Marshall was denied entry to the University of Maryland Law School because of his race. Soon after graduating from Howard University Law School, Justice Marshall commenced his career as a lawyer for the NAACP. He began the work of creating a more just society by challenging pay gaps between black and white teachers in Maryland. Justice Marshall then went on to open the public schools in the right place. This is an honor for Thurgood Marshall, of course, was the first African American Supreme Court justice and one of the most well-known leaders of the Civil Rights movement. His efforts were instrumental in the landmark case Brown v. Board of Education which made segregation in schools illegal.

Realizing his abilities, President Kennedy appointed him to the Second Circuit Court of Appeals, and in 1964 President Johnson appointed Marshall as solicitor general.

After serving three years as solicitor general, President Johnson nominated Thurgood Marshall for a seat on the Supreme Court. Justice Marshall overcame opposition from southern senators in the Senate and went on to serve on the Supreme Court for 24 years, during which time he wrote many of the Court's most important decisions. Throughout his service on the Supreme Court, Justice Marshall continued to be a strong advocate of individual rights, and remained true to his crusade against discrimination.

By fighting and winning as he did for the protection to the rights of minorities, Justice Marshall brought greater protection to the rights of all Americans.

The career, character, and contributions of Justice Thurgood Marshall are without equal. His struggles for equality and dignity for all people were of historic proportions. He has given to the American public an enduring symbol of leadership, determination, compassion, and honor.

Mr. Speaker, I am honored to support this bill and urge its passage.

Mr. COSTELLO. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio (Mr. LA TOURETTE), the ranking member of the subcommittee, Mr. LA TOURETTE. Mr. Speaker, I thank the gentleman for yielding to me.

H.R. 988 designates the U.S. courthouse at 40 Centre Street in New York as the Thurgood Marshall United States Courthouse.

Mr. Speaker, similar legislation to honor this great jurist passed the House in the 104th, the 105th, and the 106th Congress. Sadly, and unfortunately, the other body has not acted.

I yield to congratulate our colleague, the gentleman from New York (Mr. ENGEL) for his persistence in bringing this important matter to our attention. It is a bill worthy of being enacted by this body, and hopefully we can have it on the President's desk for his signature.

Mr. COSTELLO. Further reserving my right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. ENGEL).

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

Mr. ENGEL. Mr. Speaker, first of all, let me thank the gentleman from Illinois (Mr. COSTELLO), the gentleman from Ohio (Mr. LA TOURETTE), the gentleman from Alaska (Mr. YOUNG), and the gentleman from Minnesota (Mr. OBERSTAR) for their assistance in bringing the bill to the floor. It is a pleasure working with them, and a special thanks to the gentleman from Illinois (Mr. COSTELLO).

Mr. Speaker, I am proud to be the sponsor of H.R. 988, which designates the United States courthouse at Foley Square in New York City as the Thurgood Marshall United States Courthouse.

Thurgood Marshall, of course, was the first African American Supreme Court justice and one of the most well-known leaders of the Civil Rights movement. His efforts were instrumental in the landmark case Brown v. Board of Education which made segregation in schools illegal.

Realizing his abilities, President Kennedy appointed him to the Second Circuit Court of Appeals. He next served as Solicitor General under President Johnson and won 29 of the 32 cases he argued. When he was appointed to the Supreme Court of the U.S., President Johnson stated that it was, "The right thing to do, the right time to do it, the right man, and the right place." And I could not agree more.

Mr. Speaker, my legislation has the support of Thurgood Marshall's family, the New York State Senate, the New York State Bar Association, and the New York State County Lawyers Association, of which Marshall was a longtime member. The Federal courthouse at Foley Square is where Thurgood Marshall practiced when appointed by President Kennedy to the U.S. Court of Appeals for the Second Circuit in 1961.

This is an honor for Thurgood Marshall, it is a fitting honor, and I thank the House for considering this important legislation and look forward to its passage.

Mr. COSTELLO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? There was no objection.

The Clerk read the bill, as follows:

"H.R. 988 be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 40 Centre Street in New York, New York, shall be known and designated as the "Thurgood Marshall United States Courthouse";
Community health centers have stood in the gap providing health services to the poor and medically underserved throughout our Nation, in public housing, homeless shelters and in rural America. It is a program that has been successful and is currently serving over 12 million people at 3,200 health delivery sites throughout the United States, Puerto Rico, Guam and the Virgin Islands. Health centers have been cost-effective and at the same time provide quality health care to their patients. They are truly community oriented and patient focused.

In addition, health centers play a major role in helping to reduce health disparities. We still remain a Nation divided when it comes to health care, divided along the lines of those who have and those who have not access to care. Health centers have to bridge the gap between those entities.

A National Health Center Week will allow health care providers and patients to raise awareness, and educate the public about health issues and the role that they play in our communities. Therefore, I am pleased to support this resolution, and urge its immediate adoption.

Mr. Speaker, I ask unanimous consent that the Concurrent Resolution be discharged from further consideration.

The Clerk read the title of the concurrent resolution, as follows:

H. Con. Res. 179

Whereas such health centers make health services available to millions of Americans, including those who do not have health insurance; and whereas such health centers play a vital role in reducing health disparities, improve access to health care, and reduce health care costs.

Whereas such health centers and other health care providers have developed innovative programs to expand access to care and improve quality of care.

Whereas such health centers have provided cost-effective, quality health care to poor and medically underserved people in the United States, including the working poor, the uninsured, and high-risk and vulnerable populations.

Whereas such health centers help reduce health disparities, meet escalating health care needs, and provide a vital safety net, in the health care delivery system of the United States.

Whereas such health centers provide care to children, to expectant mothers, to children's mothers, to older Americans, to people with disabilities, to the uninsured, and many high-risk and vulnerable populations.

Whereas such health centers and other health care providers have developed innovative programs to expand access to care and improve quality of care.

Whereas such health centers have an average, 28 percent of the annual budget of such health centers is provided by State and local governments, Medicaid, private contributions, private insurance, and patients.

Whereas such health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain healthy and productive.

Whereas such health centers and other health care providers have developed innovative programs to expand access to care and improve quality of care.

Whereas such health centers are committed to providing care to all, regardless of their ability to pay.

The resolution before us simply urges to the House, and urge adoption of this resolution.

The concurrent resolution was agreed to.
The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. SCHAFER. Mr. Speaker, reserving the right to object, later this month on August 20, the gentleman from Illinois (Mr. HASTERT) has authorized a delegation of Members of this House to travel to Ukraine to help the Ukrainians celebrate the tenth anniversary of Ukrainian independence. It is a celebration of victory that belongs to the people of Ukraine, and I thank the gentlewoman from Ohio (Ms. KAPTUR) for her help in bringing this resolution forward and delivering it to the people of Ukraine later this month.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. SCHAFER. Further reserving the right to object, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Colorado (Mr. SCHAFER) who co-chairs the Ukrainian Caucus with myself; we have several dozen Members who are participants in that. For dropping this resolution, H. Res. 222, congratulating Ukraine on the tenth anniversary of the reestablishment of its independence, we ask for the unanimous approval of the membership.

Mr. Speaker, it is important to remind ourselves and think about the fragile beginnings of our own Republic, after 10 years, where were we. We did not experience a constitution being adopted and it took us almost a century more to grant civil rights to all of our people. And voting rights did not come until almost another 70 years later to women, then in the mid-20th century to minorities.

So we see the struggle of this democratic Nation, this democratic Republic, to provide greater and fuller, more robust liberties to all of her people. We look in 1996; we have several bumps in that road, certainly the full development of free press and independent media; the development of a rule of law and a judicial system; a legislative branch of the government that participates fully and equally with the executive. And as we move this resolution forward, we urge her to join with the community of freedom-loving nations and European nations, and hopefully in our lifetime see her fully integrated into the European and trans-Atlantic set of institutions that we all have come to respect and love.

Mr. Speaker, I thank the gentleman for yielding, and urge this resolution's swift passage. I thank the gentleman from Illinois (Mr. HASTERT), the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), the gentleman from California (Mr. GALLEGLY), the gentleman from New York (Mr. ENGEL), all Members who have supported this resolution at the authorizing level, the gentleman from Colorado (Mr. TANCREDO), and the gentleman from Nebraska (Mr. BERREUTER) who shares our interest in moving Ukraine forward, Mr. SCHAFER. Mr. Speaker, I thank the gentlewoman for her help and leadership on this important issue.

Mr. Speaker, Ukraine faces certain challenges. There is no question about that, and the United States is prepared to pay whatever supportive role it can to help promote private property ownership, freedom of speech, human rights and political stability. Despite all of those challenges, and some of them are not experienced before, the economic growth in Ukraine is opening up Ukrainian people to a tremendous amount of prosperity that they have not experienced before.

As I said before, there are lots of political figures that we have had a chance to meet over time, but the tenth anniversary of Ukrainian independence is a victory and celebration for the people of Ukraine. Their hope for freedom, democracy and an end to war, their hope for a strong and independent Ukraine that is strong enough, the economic growth in Ukraine is opening up for a prosperous future. And as we move this resolution forward, we want to walk alongside Ukraine on this journey, and we want to see her fully integrated into the European and trans-Atlantic institutions.

Mr. Speaker, I withdraw my reservation for objection.

Mr. Speaker, I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 5, 2001.

J. DENNIS HASTERT, Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

The Clerk read the resolution, as follows:

H. Res. 222

Whereas the proclamation on August 24, 1991, of the independence of Ukraine led to the disintegration of the Soviet Union; Whereas Ukraine and the United States, proceeding from their shared commitment to democratic values, have expressed their determination to build broad and durable relations in the 1994 Charter for Ukrainian-American Partnership, Friendship and Cooperation and Ukraine is a country that maintains a distinctive partnership with NATO since 1997; and

Whereas on June 28, 1996, Ukraine’s Parliament voted to adopt the democratic Constitution and Ukraine has conducted its presidential and parliamentary elections according to it, moving further away from the former communist model of one-party totalitarian rule; and

Whereas Ukraine since its independence has successfully transferred from a colony of the Soviet empire into a viable, peaceful state established with all, neighboring countries and consistently pursues a course of European integration with a commitment to ensuring democracy and prosperity for its citizens. Now, therefore, it is—

Resolved. That it is the sense of the House of Representatives that—

(1) as a leader of the democratic nations of the world, the United States commends and congratulates the people of Ukraine on the tenth anniversary of Ukrainian independence;

(2) the President and Parliament of Ukraine should continue their efforts to maintain the balance of power between the executive and legislative branches of government and ensure that their cooperation is aimed at furthering democratic reforms and strengthening civil society based on the rule of law; and

(3) the United States should continue to assist in building a truly independent Ukraine through encouraging and supporting democratic and market-economy transformations in Ukraine, keeping the doors of European and trans-Atlantic institutions open to this nation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 5, 2001

The SPEAKER pro tempore (Mr. BERREUTER) laid before the House the following communication from the Speaker:

WASHINGTON, DC, August 2, 2001.

I hereby appoint the Honorable Frank R. Wolf or, if not available to perform this duty, the Honorable Ed Gilchrist to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 5, 2001.

J. DENNIS HASTERT, Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

The Clerk read the resolution, as follows:

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The resolution was agreed to.

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The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.
Mr. HORN. Mr. Speaker, recently I introduced legislation, H.R. 2694, to elevate the Environmental Protection Agency, EPA, to a permanent Cabinet-level position. It has been 31 years since the EPA was first established, and I would suggest to my colleagues that the legislation is long overdue.

This is not the first time the House of Representatives has been asked to consider this legislation, and indeed it is not even the first bill on the subject this year. But in many respects, it is a better bill than its predecessors, and I hope it will move swiftly through the legislative process.

On December 2, 1970, our Nation marked its first major environmental milestone by establishing the Environmental Protection Agency. In so doing, then President Richard Nixon stated, "I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created simply because environmental protection существует across so many jurisdictions and because environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed."

President Nixon's overriding concern to be addressed by the establishment of the EPA was that although numerous parts of the Government may have been making progress in protecting environmental quality, no single independent department existed to focus solely on our environment. Moreover, the mission statements and purposes across departments necessarily affect how each department views environmental protection, leading to inconsistent and varying ideas of real protection.

Thus, the EPA was organized. Since 1970, we have made a number of important strides to improve our environment, including such legislative achievements as the Clean Air and Clean Water Acts. Today, the administrator of the EPA is a member of President Bush's Cabinet. But, the administrator serves in that capacity at the pleasure of the country's chief executive officer. If we are truly serious about maintaining our commitment to environmental protection, Cabinet-level status must be made permanent by elevating the EPA to a full department.

In each of the past several Congresses, my colleagues and I have attempted to elevate the EPA to a Cabinet-level department. The closest that we came to achieving this principle occurred in 1993. The base legislation at that time was developed by the gentleman from Michigan (Mr. CONYERS), then chairman of the House Committee on Government Operations. This bill, in turn, was similar to legislation crafted by Senator Glenn and considered by the Senate. That bill passed the Senate by a wide margin, 79-15.

The reason to introduce the bill remains as pressing today as it was in 1993 and certainly as it was in 1970. Protecting our environment is a priority for all Americans. To give this function the attention it deserves really necessitates elevating the EPA to the Department of Environmental Protection. H.R. 2694 does precisely this. In particular, this commitment and elevation of the EPA signals to our world partners and to our own citizens that environmental protection and restoration is at the top of our policy priorities.

Besides elevating the EPA to a full department, we should look upon this as an opportunity to fix long overdue procedural challenges. In particular, we have an opportunity to ensure that in addressing environmental regulations, the Department utilizes the best science that is currently available and that sound public health priorities will actually be addressed by the proposal. It is worth noting that in passing their version of the legislation, the Senate included this very proposal and passed it by a vote of 95-0. It is refreshing to see that sometimes policy considerations can prevail over partisanship.

We face serious challenges to prevent global warming, to reduce toxic emissions, to assure quality air and to prevent other harmful discharges to ensure that we have clean sources of drinking water. These are large challenges with which we cannot afford to play politics. Evaluating the Environmental Protection Agency allows us the opportunity to get out of the equation, but we need to do it correctly. I look forward to working with my colleagues and the administration to move forward on this important bill.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Brown) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MINNESOTANS MOURN THE DEATH OF KOREY STRINGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, the people of Minnesota and Minnesota Vikings football fans around the world are mourning today because we have had a tragic death in the family.

Minnesotans are devastated over the loss of Korey Stringer, the gifted all-pro Minnesota Vikings football player, loving husband and father, popular hero to Minnesota kids and respected role model in our great State.

As Vikings head coach Dennis Green put it, "We have lost a brother, a teammate and a friend. Everybody loved, respected and admired Korey Stringer. He was our gift from heaven."

Mr. Speaker, Minnesota lost more than just the anchor of the Vikings offense line when Korey Stringer died at 1:50 this morning because of heat-stroke. We lost much more than a Pro Bowl football player. We lost one of the finest people in the National Football League and our Twin Cities community.

I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created simply because environmental protection exists across so many jurisdictions and because environmental deterioration is of great importance to the quality of life in our country and the world. I believe that in this case a strong, independent agency is needed."

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told Stringer they were having equipment problems with a local youth football team, not enough money to buy equipment. Stringer went right out to his truck and signed over his Pro Bowl to the youth football team. That was Korey Stringer.

Mr. Speaker, Minnesota Vikings owner Red McCombs summed it up well when he said, “We have lost a truly remarkable man who was an outstanding husband, father and football player.”

My family friend of many years, former Viking Joe Senser, who is now the radio voice of the Minnesota Vikings, said, “You will not find a better family man who loved his family more.”

Korey’s loving wife Kelci, 3-year-old son Kodie and his extended family are in the thoughts and prayers of all of us. Korey, you might be gone, but you will never be forgotten by the people of Minnesota.

AMERICA SHOULD NOT TURN ITS BACK ON WORLD CONFERENCE AGAINST RACISM

The SPEAKER pro tempore (Mr. Osborne). Under a previous order of the House, the gentleman from Illinois (Mr. Davis) is recognized for 5 minutes.

Mr. Davis of Illinois. Mr. Speaker, I would also like to be associated with the remarks of the gentleman from Minnesota relative to the loss of Korey Stringer, who not only was a great football player, but indeed was a role model, not only for Minnesota, but for the entire Nation. So we share with him and the Stringer family all of our sympathy.

Mr. Speaker, as we speak, an intensive 2-week effort is under way in Geneva to finalize plans for the World Conference Against Racism. Racial Discrimination, Xenophobia and Related Intolerance. The World Conference, to be held in Durban, South Africa, on August 31, is expected to be the most important international meeting on racism ever held.

Given America’s tragic history of racial oppression, racism and inequality and the bloody struggles required to end slavery, lynching, Jim Crow discrimination in employment, education, health care and public accommodations, one would assume that America would have some important lessons to share with the international community.

Given the heavy price the world has been forced to pay as a result of the slave trade, one would assume that America would be sensitive and responsive to an attempt to clarify that history and examine means of redressing the wrongs of slavery and racism.

Given the contradictions arising from the international debt crisis, from the process of globalization and trade driven by the great inequalities between the rich nations and the poor nations, one would assume that America would be responsive to an attempt to clarify that history and examine means of redressing the wrongs of slavery and racism.

One would assume that America would feel a powerful sense of responsibility for those experiences, because we understand the immense human, social and economic costs associated with the evils of racism and discrimination.

Unfortunately, if one were to make those assumptions, one would be wrong. Our State Department has indicated that the United States will not attend the World Conference unless two items are struck from the proposed agenda: The characterization of Zionism as racism, and the issue of reparations for slavery and colonialism.

In international forums from Ireland to the Middle East, from Southern Africa to the Indian sub-continent, America has always said that problems cannot be solved, that differences cannot be narrowed, if we refuse to discuss them.

Suddently America has become the lone voice in world diplomacy, insisting it is our way or no way. The Anti-Ballistic Missile Treaty, the Germ Warfare Treaty, the Kyoto Global Warming Treaty, and now the World Conference on Racism.

What kind of superpower are we? Are we about democracy, about democratic process, about transparency and mutual self-interest? Or are we about imposing our will on international conceptions, about insisting on predetermined outcomes of discussions between nations?

Only those who fear the outcome of fair and open discussion have reason to refuse to engage in debate and discussion. I believe that it is healthy to fear in openly and honestly exploring history and in repudiating racism.

It is time to come to grips with racism and the legacy of racism. It is in our national interests and in our international interests.

UN Secretary General Kofi Annan has correctly defined the problem. He stated we need to “find ways to acknowledge the past without getting lost there; and to help heal old wounds without reopening them.”

If America is serious about its affirmation that racism and democracy are fundamentally incompatible, and I think we are serious about it, then America must be at the table on August 31.

So I would hope, I would pray, and I would urge that America do in fact attend the conference, participate, and explore with the rest of the world attempts to find solutions to our past and present problems.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Hunter) is recognized for 5 minutes.

Mr. Hunter. Mr. Speaker, I come to the House floor tonight to respond to statements made by some of my colleagues in their remarks on July 24. Their reference is to various secessionist movements in India.

My colleagues suggest that Muslims in Kashmir and Sikhs in Punjab, among other religious and ethnic groups in certain Indian states, have the right to separate their states from the Indian Nation. They seek the United States’ support for secession. But their theory is not based on the American experience.

These critics deem the recent landmark summit between India and Pakistan a failure because it did not produce any substantive agreement over Kashmir. They argue that Indian Prime Minister Vajpayee’s refusal to speak extensively on Kashmir was a testament to India’s contempt for democracy.

Mr. Speaker, I would like to draw a parallel between India, the world’s largest democracy, and our own democracy in the United States. We cannot forget the principles on which this Nation was founded and the war we fought to maintain these principles, for it was in the Civil War that the Union fought to keep this Nation united.

RESPONDING TO SECESSIONIST ARGUMENTS AGAINST INDIA

It was South Carolina’s act of secession that was fiercely battled on American soil to keep the United States together at any cost. Americans refused to give in to the South’s secession on ideological grounds and vehemently denied any right to secession based on the Constitution or the American historical experience. The framework of this Nation is founded on the fundamental notion that States cannot secede.

My colleagues condemned India for trying to keep the Nation together. India is a model for democracy in the South Asia region. India is supporting the same ideals that shaped the history and success of the United States. We should support India in its opposition to State secession.

Americans cherish the unity and patriotism that we fought so hard to maintain during the Civil War. India is fighting a battle that America fought in the 19th century for the same outcome: a united country.

My colleagues have made claims that India is not one nation, but rather a
multinational state put together by the British for administrative convenience. Their claims ignore India’s history, its independence movement, and the principles on which India was founded.

India was founded as a secular state based on an equality of religions. Secularism is the thread that holds together the fabric of diversity that characterizes India. Muslims and Sikhs do not need to secede from such a nation. Secession based on religion or any other principle goes against the secularism that India stands for, and it is the secularism that India cannot afford to compromise in its fight for democracy.

Mr. Speaker, a divided India is a recipe for chaos. A peaceful and smooth transition to a split India is not feasible. With the diverse array of regions, 18 official languages and 17 freedom movements in India, the breakdown of India would be disruptive for its people and the international community. A divided India is more susceptible to outside influence and the possible resurgence of colonialism. For a country such as India, unity is its strength.

While a joint agreement may not have come out of the India-Pakistan summit in July, we must realize that India has a sincere desire to improve relations with its neighbors. A united and strong India is a necessary prerequisite for cultivating a positive relationship with not only Pakistan, but all of South Asia.

IMMIGRATION REFORM

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, we are once again approaching a national discussion on the regard to the issue of immigration, and I am glad we are doing so because it is, of course, an important one.

I am concerned because many times this particular issue is one that we are reluctant to deal with. We are reluctant on the floor of the House; we are reluctant oftentimes in the court of public opinion to discuss the issue of immigration or immigration reform for fear that somehow or other our concerns on this particular topic would be interpreted as being either anti-immigrant or racist in nature.

But it is a fact, Mr. Speaker, that it is one of the most significant and perplexing problems we face as a Nation. It is, I think, one of the most serious of the domestic policy issues that we face as a Nation, because it affects us in a variety of ways. Massive immigration into the United States, especially massive numbers of illegal immigrants into the United States, cause a number of problems. They cause problems not just for people in the United States, but they cause problems even for those coming in.

We have heard, of course, many times of the situations that have occurred as people have come across the border, have been taken advantage of either by people on this side or on the other side of the border, people who charge large sums of money for taking people into the United States. And then when these folks get here, they are oftentimes taken advantage of by employers who know that they can pay them lower than the going rate for wages, they can withhold benefits, they can exploit all of this because the employee being illegally here cannot do, or refuses, or is fearful of, doing anything about it. So it is bad for the person coming across the border, and it is bad for people here for a variety of reasons.

Massive numbers of people coming across the border, legally and illegally, low-skilled and, therefore, low-wage earners, have a depressing effect on the income of low-income people in the United States. It is difficult for people here these days to make a living, is certainly difficult for them to compete with people who are working for even lower than minimum wage levels.

But there are even more important and pressing problems that we face in the realm of immigration, and those problems deal specifically with the cost of infrastructure that has to be developed and created in response to the growing numbers of people in the country.

We have time and time again talked about the problems that the Nation faces as a result of an energy crisis. Yesterday, this House, to its credit, passed the President’s bill, an energy reform proposal that hopefully will bring us a long way towards solving the energy crisis that we face in this Nation. But why do we face the crisis, is the concern that we should all have.

Why is it that there is not enough energy to go around? Well, the fact is, Mr. Speaker, that the problem is a direct result of the numbers of people that we have coming across the borders in the United States.

The massive numbers of illegal immigrants and legal immigrants have increased the population of the United States dramatically over the last 10 years. According to the United States Census, immigration accounts for over 55 percent of the population increase in the country. As a result, there are, of course, lots of repercussions that are brought about in terms of infrastructural costs.

Recently, we have witnessed something else happen. We have witnessed a proposal on the part of a Working Group in the White House, a proposal to provide amnesty to at least 3.5 million Mexicans who are here illegally. Now, that is peculiar in many ways.

First of all, we tried this once before. In 1996, we proposed and, in fact, adopted a proposal that was designed at that time to reduce the number of illegal aliens coming into the country, to help us get a grip on our immigration problem. It, of course, did not work. It did exactly what we would assume it would do, Mr. Speaker. It encouraged many millions of others to come into the country illegally in the hopes that they too, in time, would be given the opportunity to be legalized because of the new millennium scare, as that sounds, as incongruous as that sounds, as illogical as that sounds. But, nonetheless, we have done that.

I am concerned about this proposal, and I hope that we will eventually strike it down.

EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I wanted to come to the well tonight to talk a little bit about an issue that has gotten a lot of attention here on the floor, lots of talk and lots of rhetoric, and that is the whole question of embryonic stem cell research. I am a physician and I know firsthand about taking care of those people; I know about their health and the issues of morality, and I have devoted my life to trying to improve the health and well-being of individuals, both in the Congress and in the legislature, as well as in my office.

As a physician, I was trained almost 40 years ago, and I am amazed by the medical progress which has occurred over the last few decades. It is hard to believe that in 1924, the President of the United States’ son died because he was playing tennis, he developed a blister on his heel, got an infection, and died. That certainly was before antibiotics; it could not happen today. The last 50 years have seen an absolute explosion of medical technology and knowledge in this whole arena.

It is true that the issue that is of the most importance and the most promise is the whole area of embryonic stem cells. These are the most primary, primitive cells in the human body that start out as one cell and they become human beings. When we think about the things that can be done with stem cells, the possibilities are unlimited, although our knowledge is limited at this point.

We have to be able to imagine a day when somebody like Lou Gehrig would have a stem cell treatment that would allow him to live. People like that are living in my district at this point. This stem cell research gives them some hope. I have taken care of people like this, with Parkinson’s disease, with Lou Gehrig’s disease, Huntington’s Chorea, paralysis, blindness, diabetes, and spinal cord injuries.

As we use this picture up of Christopher Reeve, Superman, who was riding a horse, broke his neck, and is now paralyzed. This young girl next to him is
also paralyzed. These are the people we are talking about finding some help for. Right now, there is no help for either one of them, no hope that they will ever be able to walk again.

Stem cells, as I say, are the most undifferentiated cells. When given the proper signals, they become any specialized cell in the body: brain, blood, liver, lung. The opportunities are unlimited.

There are three sources of these stem cells: adult stem cells; that is, stem cells we would get out of my body or any other adult’s body that are operating in the bone marrow to produce blood or something like that; fetal stem cells, that is in babies that are in the womb and/or developing fetuses that are in the womb and for one reason or another are born either naturally or some other way because of an elective procedure; or the third way is from a pregnancy.

Now, how does an embryo come about? People sort of say, where do they come from? Our research right now under the National Institutes of Health in embryonic research is controlled by certain guidelines. This administration stepped in and stopped what has been going on in this country for the last 8 years.

The question we have to ask ourselves is, why is this? Now, my belief is that there is nothing to do with science, it really is a moratorium on for political reasons. Let me explain why I say that.

The embryonic stem cells come from in vitro fertilization clinics. There are people out there who try to have children in the normal manner and it does not work, so they go to a clinic, and the woman goes through a procedure by which she creates a number of eggs. They are extracted from her body and put in a test tube. The man puts his semen in the test tube, and we start a baby to develop.

Now, that baby, the doctor harvests, and that is the term they use, survives three days, three days, have three test tubes. You put these eggs in there and you fertilize them and you start out a child.

When the time comes for the woman to get pregnant, they take one of those and put it in the woman’s uterus, and hopefully it takes. If the first one takes, we now only have two left. The question is, what do we do with those? We can throw them away, or we can let them continue to research. My belief is that the possibilities are so great that we must continue this research. Throughout history, people have resisted scientific advancement. History is replete with examples of fundamentalist, religious leaders issuing scientific decisions based on absolutely no evidence.

I want to talk today about embryonic stem cell research. There has been a lot of rhetoric out there denying its therapeutic potential, questioning its morality, focusing on adult stem cells, and so on.

I am a physician. I know first-hand about health and mortality. I have devoted my life to improving the health and well-being of people—an on an individual level as a practicing physician, and through health policy—both in the Washington State legislature and here in Congress.

As a physician who trained roughly 40 years ago, I am aware of the medical progress that has occurred in just over the past few decades. In the first half of this century, an infected blister could kill, as it did to President Coolidge’s 16-year-old son in 1924, following a tennis match at the White House. The last 50 years have borne witness to such an explosion of scientific and medical advances that have saved countless lives and alleviated human suffering.

As we enter the new millennium, stem cell research is the wave of the future in biomedicine.

So much of what I learned in medical school has changed. The untreatable afflictions can be treated, if we just allow science to progress. Imagine the day when Lou Gehrig’s Disease is not associated with a miserable and certain death. Think about diabetic children no longer requiring multiple pin-pricks throughout each and every day of his/her life in order to survive. Picture paralyzed individuals standing up and walking away from their wheelchairs.

I have taken care of patients with many of these afflictions. I have friends who have suffered and some that have died.

Embryonic stem cell research offers unprecedented promise for these and so many devastating diseases and disabilities—Parkinson’s disease, ALS, Huntington’s chorea, paralysis, blindness, diabetes—the list is endless. Stem cells are undifferentiated. When given the proper signal, they are potentially capable of becoming any specialized cell, such as a brain or blood cell. As such, their potential for saving lives is unlimited.

There are three sources of stem cells—adult, fetal and embryo. Under the Clinton Administration, the National Institutes of Health issued explicit guidelines for research involving stem cells derived from embryos. The guidelines provide stringent requirements that enable scientists to conduct stem cell research within the constraints of careful federal oversight and standards.

Currently, the administration has placed a moratorium on these NIH guidelines and is deciding whether or not to shut the doors on the most promising biomedical research of our time.

Throughout history, people have resisted scientific advancement. History is replete with examples of fundamentalist, religious leaders issuing scientific decisions based on absolutely no evidence. It is déjà vu all over again: today with embryonic stem cell research, as they inject politics into the single most promising biomedical research of the century.

The Administration unfortunately is not committed to research that would hasten medical discoveries, but rather holds science hostage to the Catholic vote. As several New York Times articles reported last month, the president’s chief political adviser is concerned about the views of the Catholic Church because Catholic voters are seen as such a swing vote in the elections. The Administration has degraded medical research and the tremendously promising embryonic stem cell research into an anti-abortion debate.

We cannot allow the current Administration to withdraw federal support for embryonic stem cell research. It is unconscionable that purely political considerations are obstructing medical discoveries that could help the 120,000 children and one million adults with Type I diabetes; the 500,000 individuals suffering from Parkinson’s disease; the 200,000 living day-to-day with the disabling effects of spinal cord injuries; and so on.

Without a microscope, one cannot even see this debate is all about. The center of the controversy is a microscopic, days old cluster of cells—this is the embryo.

It is stored in this test tube. It is an egg fertilized by a sperm and stored frozen in one of those—is this life?

I have a question for those who oppose embryonic stem cell research on supposedly “moral grounds”—if you were to pass a home that was on fire and there was a seven year old child in this home, would you risk your life to save that child? I imagine the answer would be yes. If, on the other hand, you passed a fertility clinic that was on fire, would you risk your life to save an embryo? Save one of the test tubes?

Embryonic stem cells are developmentally the earliest of all stem cells, and, therefore, they have the greatest potential to become different body cells—greater than adult stem cells. The embryonic stem cell is a unique type of cell that holds the key to cures for so many devastating diseases and afflictions.

This is perhaps the first time ever that a solitary source offers so much promise for a multitude of different illnesses.

Limiting crucial research to adult stem cells, a position suggested by the White House and many of my colleagues, is foolishly shortsighted. In fact, the general consensus shared among numerous scientists at a recent National Academy of Science workshop on stem cells was that the evidence for the broad potential of adult stem cells is at best scant.

Despite some reports of success, it is certainly unclear whether adult stem cells have the same promise as embryonic stem cells. First of all, cells for all tissue types have not yet been found in the adult human. Second, genetic disorders would be present in the patients’ adult stem cells. Third, all evidence suggests that adult stem cells lack the same capacity to multiply as do embryonic stem cells.

Another compromise suggested by the White House would permit such research but limit it to the very few cell lines already in existence. Not only is this utterly foolish because there is not nearly enough cell lines to make a significant contribution, but it is also hypocritical. These cell lines were most likely not derived in compliance with the NIH guidelines. As the Administration is already occupied with the morality and ethics of this subject, they may end up advocating research on cell lines that were most likely not derived with any ethical oversight.

Another one of my colleagues has been circulating a Dear Colleague that suggests there is another alternative—that it is possible to remove the embryonic stem cell without destroying the embryo. He refers to a conference attended to by Members and staff at NIH. I was at that conference. The scientists made it abundantly clear that we lack this technology today, and, rather, it is years away. We do not have years to waste while we wait.

Some of my colleagues have tried to convince us that there is no clinical evidence to
support human embryonic stem cell research. Well of course not, there is a federal moratorium on the research! These cells were only recently isolated, the first grant applications were due at NIH last March, and then the administration placed everything on hold. If they ever allow the research to proceed with full urgency, we will see success.

Furthermore, my colleagues are regrettably misleading and not up-to-date with the scientific literature. There are in fact numerous studies using animal models that demonstrate the tremendous therapeutic promise of embryonic stem cells. These findings challenge much of what I learned in medical school. For instance, medical dogma for decades accepted no hope for so many neurological disorders.

For example, scientists have been able to transform embryonic stem cells derived from mice into the type of neuron that is defective with Parkinson’s disease. We know that these neurons work when placed in animals. That is, these neurons work when placed in animals. That is, these neurons work when placed in animals. That is, these neurons work when placed in animals. These cells were only recently isolated, the first grant applications were due at NIH last March, and then the administration placed everything on hold. If they ever allow the research to proceed with full urgency, we will see success.

And how many embryos would be formed, these embryos would be discarded. These cells are implanted into animal models with different illnesses, and the animals get better.

Lets turn to diabetes. This paper describes a study whereby embryonic stem cells are transformed into pancreatic islet stem cells. These islet cells responded to sugar in the right way by producing insulin.

For those who say the evidence is lacking, I say, get your head out of the sand. The evidence is mounting. This is to avoid the possibility of beingêtes. The fact is that embryonic stem cells come from cells that are thrown away in fertility clinics, but for the White house, it is not about advancing scientific discovery. Instead, their concern for the “swing vote” is their modus operandi. For them, this debate is unfortunately about the next election.

Embryonic stem cells are derived from embryos produced during in vitro fertilization, a process that creates many more fertilized eggs than are implanted into women trying to become pregnant. Unused embryos are stored frozen in test tubes and eventually thrown away. Embryonic stem cell research would use only these excess embryos, obtained from fertility clinics and with consent from the donors.

In other words, if the research were not performed, these embryos would be discarded. And how many embryos would be “saved” if the research did not take place? The answer is none of our business if we are for embryonic adoptions. But for the most part, the vast majority of couples do not want to donate their genes to strangers. No policy made in the White House or in Congress will result in these couples changing their minds.

Thus, we are having a debate over whether to perform life-saving research or to dispose of the embryos and abandon the greatest hope for a cure for so many devastating illnesses.

Those who support stem cell research assert that their position is based on ethical and moral grounds. But what is so ethical or moral about prohibiting research to alleviate human suffering? It is utterly hypocritical and outrageous that the opposition remains silent over the fact that these embryos come from fertile clinics but conveys such fury over saving them to perform vital life-saving research.

How can we compare the importance of a group of cells smaller than the dot at the end of this sentence with the poor quality of life and decreased life expectancy for young children with insulin-dependent diabetes? In fact, it is completely amoral to deny access to the single most promising research of today.

The Administration lacks support from many members of its own party, with several conservative pro-life Republicans openly supportive of embryonic stem cell research. When Orin Hatch insists that a frozen embryo stored in a refrigerator in a clinic is not equivalent to an embryo or a fetus in the womb, the Administration’s facade of having a commitment to promote the development of medical research is completely undermined.

Banning federal funding for such embryonic stem cell research would not eliminate it. Ironically, such research would then take place in the private market without the benefit of ethical regulation. Under the Clinton Administration, the National Institute of Health issued explicit guidelines for embryonic stem cell research. The guidelines provide stringent requirements that enable scientists to conduct research within the constraints of careful federal oversight.

Prohibiting federal support for embryonic stem cell research will severely impede medical progress. These are the very people who are the ones talking about "The Stem Cell Research Act of 2001" (H.R. 2059). This bill not only supports this crucial research, but it also advocates for federal support of the derivation process itself. That is, instead of relying on private companies to derive the stem cells, we must support and fund this process as well.

I want to close in the issue of morality. Here is a real-life picture of what we are talking about. This is a picture of an embryo, magnified several thousand times. This area here, between the 8 and 10 o’clock position is the area from which stem cells are obtained. It actually contains about 100 cells. There are more cells in a drop of blood from a pin-prick than there are in this one section of the photo.

And here is Mr. Christopher Reeve with a young child—both of whom who were tragically paralyzed.

Are we going to ignore Mr. Reeve and this child? I fervently believe that the moral obligation is to help these individuals and the millions of Americans who are suffering from debilitating illnesses and disabilities. We must focus on those already born who urgently await medical progress.

For the first time ever, cures for so many afflictions that historically have been considered hopeless are now on the horizon. The fact is that embryonic stem cells come from cells that were destined to be discarded in any case. It is high time to separate politics from science.

A FEW THOUGHTS ON ENERGY

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Maryland (Mr. EHRLICH) is recognized for 5 minutes of floor time.

Mr. EHRLICH. Mr. Speaker, a few thoughts on energy.

Last night we acknowledged our duty as responsible stewards of America’s economy in putting forth a sound energy policy that respects and protects our environment. We adopted a long-term energy strategy, and it was balanced, Mr. Speaker,
between conservation and investments in renewable, nonrenewable, and nuclear sources. We never lost sight of our responsibility for the health and vitality of our environment.

H.R. 4 places confidence in America's ability to produce cleaner, and market incentives to address our energy need in an environmentally safe and cost-effective manner. Americans rely on clean, abundant, and affordable energy, Mr. Speaker. All of us want a strong economy and a clean, healthy environment.

Last night, this House reaffirmed its commitment to these principles. Further, last night's vote was more than drilling for oil or CAFE standards or gasoline additives.

We refused to reward oil-producing nations openly hostile to the United States of America. We said no to OPEC's political whims in setting the world price for oil. We said no to taking away consumer choice in preference to oil that would have eliminated tens of thousands of jobs, good jobs, Mr. Speaker, for American workers.

We did much more. We created a balanced strategy for America's national economic security and environmental need. We laid the groundwork to break this Nation's dangerous dependency on foreign oil through investments in alternative and renewable energies such as fuel cells, wind, solar, geothermal, biomass, and fusion energy.

We spoke up, Mr. Speaker, for those in our society whose voice is seldom heard, poor, low-income Americans, by reauthorizing and improving upon the Low-income Home Energy Assistance Program, the so-called LIHEAP program, and weatherization programs.

Mr. Speaker, we approved H.R. 4 last night. It is a responsible, balanced energy strategy which recognizes the need for conservation, alternative energy, and a healthy environment. This was a great day for America. It was a critical day for Marylanders, particularly, and for all Americans.

Mr. Speaker, I yield to my friend, the gentleman from Arizona (Mr. HAYWORTH). Mr. HAYWORTH. I thank my colleague for yielding to me, Mr. Speaker, and I appreciate his remarks on legislation on energy.

One other part of that legislation had to do with the Buy Indian Act for the first Americans, involving the first Americans in energy transmission and production, and a myriad of other activities that will help bring economic vitality to the reservations and sovereign nations.

CONCERN ABOUT SIDS AND NATIVE AMERICAN TRIBES

Mr. HAYWORTH. Mr. Speaker, I rise tonight to speak of another concern shared by all Americans, but especially the first Americans. That would be SIDS, or Sudden Infant Death Syndrome. SIDS can happen to any family and is one of the major causes of death in babies from 1 month to 1 year of age. SIDS is used to describe the unexplained death of an infant, and the cause of this condition is not known at this time. Researchers continue to investigate this mysterious and tragic syndrome.

Congress has a special trust responsibility to assure the highest possible health status for Native Americans. Despite this trust responsibility, Native Americans and Alaska natives continue to bear a disproportionate burden of illness and premature mortality in comparison with other populations in the United States.

I am extremely concerned about SIDS because this tragic syndrome is the leading cause of infant mortality among Native Americans and Alaska natives.

CONCERN ABOUT SIDS AND NATIVE AMERICAN TRIBES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, specific risk factors have been identified, and through identification and implementation of learned actions, there is a potential reduction in the incidence rate of SIDS by up to 40 percent. Infant mortality rates among Native Americans in Indian Health Service areas was 9.3 versus 7.6 in the United States for all races.

Now, understand that among Native Americans, that means the incidence of infant mortality is 22 percent higher. The areas in Tucson, Aberdeen, and Nashville exceeded the U.S. rate by over 50 percent. Infant mortality for SIDS in Indian Health Service areas average 2.3 times greater than all races in the United States, and three times the Caucasian rate.

As I mentioned earlier, Mr. Speaker, the cause of SIDS is not known at this time. Researchers continue their important work to investigate and to understand and to try to prevent this syndrome. It is known that behavior modification and risk factor awareness has proven to reduce the incidence of SIDS by up to 40 percent.

Mr. Speaker, we must look to partner with the Indian Health Service, Indian Health Service Area Health Boards, Tribal health departments, and Tribal Councils to develop culturally sensitive national, regional, and local SIDS risk reduction education programs. We must develop tribally sensitive behavior modification models in tribal-specific formats, improving communication and education to high-risk mothers and caregivers.

Mr. Speaker, I would commend such organizations as CJ Foundation for SIDS as a model to raise awareness of the steps to reduce the risks of SIDS and to decrease the frequency of SIDS-related deaths.

As indicated in recent study by the Center for Disease Control and Prevention, the disparity between the health of Native Americans and the rest of the population is ever widening.

Mr. Speaker, we must work for public health for the special Tribal trust relationship between the Government of the United States and the sovereign Indian nations to help solve this problem, which falls disproportionately on the first Americans.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(For the following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material)

Mr. DAVIS of Illinois, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Mr. MILLENDER-McDONALD, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Mr. HOLDEN, for 5 minutes, today.
Mr. HORNE, for 5 minutes, today.
Mr. RAMSTAD, for 5 minutes, today.
Mr. HUNTER, for 5 minutes, today.
Mr. HUTCHINSON, for 5 minutes, today.
Mr. EHLERS, for 5 minutes, today.
Mr. EHRLICH, for 5 minutes, today.
Mr. TANCREDO, for 5 minutes, today.
Mr. HAYWORTH, for 5 minutes, today.
Mr. MCDEE, for 5 minutes, today.
Mr. EHLERS, for 5 minutes, today.
Mr. TANCREDO, for 5 minutes, today.
Mr. HAYWORTH, for 5 minutes, today.
Mr. MCDEE, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe; to the Committee on Financial Services; in addition to the Committee on International Relations for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House adjourned until noon on Monday, August 6, 2001, unless it sooner has received a message from the Senate transmitting its concurrent resolution No. 208, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at midnight) pursuant to House Concurrent Resolution 208, the House adjourned until the previous order of the House until noon on Wednesday, September 5, 2001, if not sooner in receipt of a message from the Senate transmitting its concurrence in House Concurrent Resolution 208.

EXECUTIVE COMMUNICATIONS.

ETC.

Under clause 3 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

3301. A letter from the Acting Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department’s final rule—Onions Grown in South Texas; Decreased Assessment Rate (RIN: 0551-AA97) received July 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3302. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Rutabegorz Grown in California; Revision of Reporting Requirements for Rutabegorz (RIN: 0579-AAB3) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3303. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Rutabegorz Grown in California; Revision of Reporting Requirements for Rutabegorz (RIN: 0579-AAB3) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3304. A letter from the Acting Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department’s final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches (Docket No. FV01-916-3 FIR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3305. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches (Docket No. FV01-916-3 FIR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3306. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches (Docket No. FV01-916-3 FIR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3307. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Raisins Grown in California; Revision of Requirements Regarding Quality Control Program (Docket No. FV01-981-1 FR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3308. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Kiwifruit Grown in California; Removal of Certain Inspection and Grade Requirements for Fresh Kiwifruit (Docket No. FV01-920-1 FR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3309. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Rutabegorz Grown in California; Revision of Reporting Requirements for Rutabegorz (RIN: 0579-AAB3) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3310. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule—Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches (Docket No. FV01-916-3 FIR) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3311. A letter from the United States Trade Representative, Office of the United States Trade Representative, transmitting the United States proposal and submission to the World Trade Organization, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3312. A letter from the Chief, Programs and Policy Specialist, Department of Labor, transmitting the Department’s annual report on the activities of the Office of Inspector General for the year ending March 31, 2001, pursuant to 5 U.S.C. app. 5 3318 (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

3313. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Rights of Fishermen for Ballast Water Treatment and Management and Lake Champlain Canal Barrier Demonstration; Request for Proposals for FY 2001 (Docket No. 000404694-114-02) (RIN: 0648-AH44) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3314. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska (Docket No. 010112013-1013-01; I.D. 072001B) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3315. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska (Docket No. 010112013-1013-01; I.D. 072001B) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3316. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration’s final rule—New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions (FRL—7025-1) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.


3318. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration’s final rule—Approval and Implementation of State Plans for Designated Facilities; New York (Region II Docket No. NY50-224a, FRL—7024-7) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3319. A letter from the Director, Defense Security Cooperation Agency, transmitting the Letter of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 01-22, NMS 37006) received August 3, 2001, pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3320. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.


3322. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Rights of Fishermen for Ballast Water Treatment and Management and Lake Champlain Canal Barrier Demonstration; Request for Proposals for FY 2001 (Docket No. 000404694-114-02) (RIN: 0648-AH44) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3323. A letter from the Acting Director, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska (Docket No. 010112013-1013-01; I.D. 072001B) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3324. A letter from the Acting Director, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Fishery from Horse Mountain to Point Arena, CA...
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Filed on August 2 (legislative day, August 1), 2001]

Mr. GOSKIN: Committee on Rules. House Resolution 219, a Concurrent Resolution authorizing the commencement of a study to evaluate the suitability and feasibility of establishing the Rim of the Valley Transportation Corridor as a regional system of major parkways and connector highways; to the Committee on Transportation and Infrastructure.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2717. A bill to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; to the Committee on Resources.

Mr. SMITH of New Jersey (for himself, Mr. McKOWN, Mr. BERNAN, Mr. GALLOWAY, Mr. SHERMAN, Mr. SOLIS, and Mr. DEGEN): H.R. 2716. A bill to authorize appropriations to establish the Rim of the Valley Transportation Corridor as a unit of the Santa Monica Mountains National Recreation Area; to the Committee on Resources.

Mr. TAUZIN (for himself, Mr. TRAFICANT, Mr. BARK of Georgia, Mr. BRADY of Texas, Mr. BROWN of Illinois, Mr. CALLAHAN, Mr. CULBRESON, Mr. MEINERT, Mr. HALL of Texas, and Mr. STUMP): H.R. 2717. A bill to promote freedom, fairness, and economic opportunity for families by repealing the income tax, abolishing the Internal Revenue Service, and enacting a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Mr. CAMP of Georgia: H.R. 2718. A bill to abolish the Internal Revenue Service, and to authorize appropriations to provide for the transition to a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Mr. MARKOS (for himself and Mrs. TAUZIN): H.R. 2719. A bill to take the 50 State Peacekeeper (MX) missiles off of high-alert status, and for other purposes; to the Committee on Armed Services.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1408. Reference to the Committee on Agriculture extended for a period ending not later than August 2, 2001.

H.R. 1408. Reference to the Committee on the Judiciary extended for a period ending not later than September 14, 2001.


PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of August 1, 2001]

By Mr. PAYNE:

H.R. 2707. A bill to restrict United States assistance to Turkey until Turkey uses its influence with the Turkish Cypriot leadership to achieve a settlement on Cyprus based on United Nations Security Council resolutions; to the Committee on International Relations.

By Mr. FROST:

H.R. 2718. A bill to designate minority membership on certain standing committees of the House; considered and agreed to. [Submitted August 2, 2001]

By Mr. LARGENT (for himself, Mr. HALL of Texas, Mr. PORTMAN, Mr. DE MINT, Mr. AKIN, Mr. ARMY, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BEATTY of Ohio, Mr. BEYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CAMPTON, Mr. CAIN, Mr. COX, Mr. CRUZ, Mr. CRUM, Mrs. CUSH, Mr. CULBRESON, Mr. DEAL of Georgia, Mr. DELAY, Ms. DUNN, Mrs. EMERSON, Mr. EVERETT, Mr. FONSELLA, Mr. GISBONS, Mr. GILLMOR, Mr. GOODE, Mr. GOODLATTIE, Mr. GRAHAM, Mr. GREEN of Wisconsin, Mr. HEPFLY, Mr. HERRICK, Mr. HILLARY, Mr. ISACKSON, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KELLETT, Mr. KERRS, Mr. KNOLLENBERG, Mr. LUCAS of Oklahoma, Mr. Mica, Mr. OTTER, Mr. OXLEY, Mr. REYNOLDS, Ms. ROUKEMA, Mr. SCHAFER, Mr. SENSENBRENNER, Mr. SENSKE, Mr. SHIMKUS, Mr. SIEGEL, Mr. SMITH, Mr. SUNUNU, Mr. SWINEY, Mr. TANCREDI, Mr. TAUZIN, Mr. TERRY, Mr. THORNHERR, Mr. TIBBETT, Mr. TURNER, Mr. WELDON of Florida, and Mr. WAMP): H.R. 2714. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself, Mr. McKOWN, Mr. BERNAN, Mr. GALLOWAY, Mr. SHERMAN, Mr. SOLIS, and Mr. DEGEN): H.R. 2715. A bill to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. BUYER, and Mr. SIMMONS): H.R. 2716. A bill to amend title 38, United States Code, to revise the consolidated provisions of law providing benefits and services for homeless veterans; to the Committee on Veterans’ Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAUZIN (for himself, Mr. TRAFICANT, Mr. BARK of Georgia, Mr. BRADY of Texas, Mr. BROWN of Illinois, Mr. CALLAHAN, Mr. CULBRESON, Mr. DE MINT, Mr. HALL of Texas, and Mr. STUMP): H.R. 2717. A bill to authorize appropriations to establish the Rim of the Valley Transportation Corridor as a unit of the Santa Monica Mountains National Recreation Area; to the Committee on Resources.
H.R. 2719. A bill to amend the Federal Water Pollution Control Act to impose limitations on wetlands mitigation activities carried out in connection with a permit for a discharge of dredged or fill material into wetlands; to convene a committee charged with the protection of private property; to the Committee on Transportation and Infrastructure.

H.R. 2720. A bill to amend the provisions of the Gramm-Leach-Bliley Act; to the Committee on Financial Services.

By Ms. CARSON of Indiana (for herself, Mr. BONIOR, Mrs. THURMAN, Mr. MCDERMOTT, Mr. SANDERS, Mr. GILL, Mr. KILDEER, Mr. SANDER, Mr. MCKINNEY, Mr. PAYNE, and Mr. PALLONE):

H.R. 2721. A bill to amend the Agricultural Marketing Act of 1946 to require that a warning label be affixed to arsenic-treated wood sold in the United States; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself, Mr. RANGEL, Mr. HALL of Ohio, Mr. WOLF, Mr. WATTS of Oklahoma, Mr. SNYDER, Mr. LANDT, Mr. SNYDER, Mr. SAENZ, Mr. AXELROD, Mr. PLATT, Mr. CAIN, Mr. LANDT, and Mr. PAYNE):

H.R. 2722. A bill to implement a system of requirements on the importation of diamonds, and for other purposes; to the Committee on Ways and Means.

By Ms. MCKINNEY (for herself, Mr. LEWIS of Georgia, Mr. PALLONE, Mr. BAIRD, Mr. SNYDER, Mr. SANDERS, Mr. MCDERMOTT, Mr. CHAFFETZ, Mr. GILL, Mr. KIRCHEN, Mr. PAYNE, and Mr. MCKINNEY):

H.R. 2723. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act in order to prohibit the use of arsenic-treated lumber to manufacture playground equipment, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 2724. A bill to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement; to the Committee on Financial Services.

By Mr. BONIOR (for himself and Mr. BOUCHER):

H.R. 2725. A bill to provide for the payment of State taxes and local taxes collected by the State on the sale of cigarettes and motor fuel by a tribal retail enterprise to persons that are not members of the tribe, and for other purposes; to the Committee on Resources.

By Mr. BONIOR (for himself, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Mr. PALLONE, Ms. DELAURO, Mr. KILDER, Mr. PESOLO, and Mr. LING):
H.R. 2732. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to prevent the westward spread of aquatic nuisance species by directing the Interior Secretary to develop a plan to prevent the westward spread of such species across and beyond the 100th meridian, monitor water bodies, and provide rapid response capacity in certain states, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BARR (for himself and Mr. EHLERS):

H.R. 2733. A bill to authorize the National Institutes of Health and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration; to the Committee on Science.

By Mr. BARR of Georgia (for himself, Mr. WEXLER, Mr. BASS, Mr. BURTON of Indiana, Mr. KELLER, Mr. RANNOUL, Mr. MEKIS of New York, Mr. MICA, Mr. CALVERT, Mr. DAVIS of Florida, Mr. SCOTT, Mr. CHABOT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, and Mr. BORINSKI):

H.R. 2734. A bill to amend title 18, United States Code, and the Federal Rules of Criminal Procedure with respect to bail bond forfeitures; to the Committee on the Judiciary.

By Mr. BARTON of Texas (for himself, Mr. TOWNS, Mr. BRYANT, Mr. BLUNT, and Mr. CAMPBELL):

H.R. 2735. A bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. Berman:

H.R. 2736. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BIMMER, Mr. DUNN, Mr. CAPUANO, Mr. DICKS, Mr. KAPTUR, Mr. LAMPSION, Mr. MCCOVER, Mrs. MECK of Florida, Mr. FOLEY, Mr. NERI of Massachusetts, Mr. BRADY of Pennsylvania, Mr. LATOURETTE, Mr. FATTAH, Mr. DELAHUNT, Mr. OBERSTAR, Mr. INSELBERG, Mr. DIPIAZIO, Mr. PALLONE, Mr. HASTINGS of Washington, Mr. PAUL, Mr. SMITH of Washington, Mr. LARSEN of Washington, Mr. LIPINSKI, Ms. MCKINNEY, and Mr. SOUDIEN:

H.R. 2737. A bill to amend the Internal Revenue Code of 1986 to repeal the harbor maintenance tax and to amend the Water Resources Development Act of 1986 to authorize appropriations for activities formerly funded with revenues from the Harbor Maintenance Trust Fund; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself, Mr. WAXMAN):

H.R. 2738. A bill to amend title 5, United States Code, to clarify that all protections offered under the Freedom of Information Act and Privacy Act apply to members of the uniformed services to the same extent and in the same manner as to any other individual; to the Committee on Transportation and Infrastructure.

By Mr. BROWN of Ohio (for himself and Mr. CHABOT):

H.R. 2739. A bill to amend Public Law 107–10 to authorize the United States plan to endose and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes; to the Committee on International Relations.

By Mr. BURR of North Carolina (for himself and Mr. SCHIFF):

H.R. 2740. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the receipt of donated prescription drug samples; to the Committee on Energy and Commerce.

By Mr. CALVERT:

H.R. 2741. A bill to amend the Internal Revenue Code of 1986 to decrease the class life for petroleum refinery property placed in service to comply with petroleum product specifications as promulgated by rule by the Administrator of the Environmental Protection Agency, and to provide compliance with refinery site, terminal, and other infrastructure air emissions requirements under the Clean Air Act, to the Committee on Ways and Means.

By Mr. CARSON of Oklahoma (for himself, Mr. LARGENT, Mr. ISTOOK, Mr. WATSON of Oklahoma, Mr. WATKINS, and Mr. KILDEE):

H.R. 2742. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; to the Committee on Resources.

By Mrs. CHRISTENSEN (for herself, Mr. NILSSEN, Mr. CLYBURN, Ms. BROWN of Florida, Mrs. MEEK of Florida, Ms. JACKSON-Lee of Texas, Ms. McKINNEY, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Mr. THOMPSON of Mississippi, Mr. RUSH, Mr. HASTINGS of Florida, Mr. RANGEL, Mr. DAVIS of Illinois, Ms. KILPATRICK, Mr. MEKIS of New York, Mr. MILLIEN-McDONALD, Ms. WATSON, Mr. Wynn, Mrs. JONES of Ohio, Mr. PAYNE, Ms. CARSON of Indiana, Mr. CAMPBELL of New York, Mr. OWEN, Mrs. CLAYTON, Mr. BISHOP, Mr. TOWNS, and Mr. JACKSON of Illinois):

H.R. 2743. A bill to require managed care organizations to contract with providers in medically underserved areas, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COLLINS:

H.R. 2744. A bill to amend the Internal Revenue Code of 1986 to classify qualified rental residences of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself, Mr. WAXMAN):

H.R. 2745. A bill to require the receipt of donated prescription drug samples; to the Committee on Energy and Commerce.

By Mr. CALVERT:

H.R. 2746. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DUNN (for herself, Mr. LARSEN of Washington, Mr. DICKS, and Mr. SOUDIEN):

H.R. 2747. A bill to amend title 48, United States Code, improve maritime safety and enhance community access to pipeline safety information; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Mr. HART, Mr. TOWNS, and Mr. RUSH):

H.R. 2748. A bill to amend title XVIII of the Social Security Act to provide for coverage of home infusion drug therapies under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ETHERIDGE (for himself, Mr. MCINTYRE, Ms. GREEN of Texas, Mr. DOOLY of California, Mr. PIECE of North Carolina, Mr. JONES of North Carolina, Mr. WATT of North Carolina, Mr. SCHRACK, Mrs. CLAYTON, Mr. EDWARDS, and Mr. SPARRATZ):

H.R. 2751. A bill to authorize the President to award a gold medal on behalf of the Congress to General Henry H. Shelton and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Financial Services.

By Mr. FERGUSON (for himself, Mr. SALAZAR, Mr. BOUKEMA, Mr. FREILINGHUSEN, Mr. SMITH of New Jersey, Mr. ROTHMAN, Mr. ANDREWS, and Mr. FALLOONE):

H.R. 2752. A bill to protect school web pages from fraud and related activity; to the Committee on the Judiciary.

By Mr. GREEN of Wisconsin (for himself, Mr. VELAZQUEZ, Mr. SCHAFER, Mr. JONES of North Carolina, Mr. RUSH, Mr. GONZALEZ, and Mr. SOUDIEN):

H.R. 2753. A bill to require a housing impact analysis of any new rule of a Federal agency that has an economic impact of $100,000,000 or more; to the Committee on the Judiciary.

By Mr. GREEN of Wisconsin (for himself and Mr. SCOTT):
H.R. 2754. A bill to amend title 18, United States Code, to reform Federal Prison Industries, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBERTS (for himself, Mr. OWENS, Mr. DAVIS of Illinois, Mr. LIPINSKI, Ms. MCKINNEY, Ms. LEE, Ms. KAPTUR, Mr. TOWNS, Mr. STARK, Mr. PETRI, Mr. KUNCINICH, Mr. MCKINNEY, Mr. FRANK, Mr. FISHER, Ms. CARSON of Indiana, Ms. SOLIS, Mr. KUNCINICH, Mr. JACKSON of Illinois, Mr. PASSEL, Mr. COSTELLO, Mr. CONYERS, and Mr. THOMPSON of Mississippi):

H.R. 2755. A bill to protect day laborers from wage theft and labor exploitation; to the House Administration, and in addition to the Committee on Education and the Workforce.

H.R. 2756. A bill to establish a mechanism for funding research, development, and demonstration activities relating to ultra-deepwater, other renewable natural gas and other petroleum exploration and production technologies, and for other purposes; to the Committee on Science, and in addition to the Committees on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUNTER (for himself, Mr. BARCIA, Mr. BARR of Georgia, Mr. BART-LETT of Oregon, Mr. SCHAEFFER of Indiana, Mr. DE MINT, Mr. HOSTETTLER, Mr. LEWIS of Kentucky, Mr. PITTS, Mr. SHOWS, Mr. Smith of New Jersey, Mr. SPECTOR of California, Mr. BACHUS, and Mr. DOOLITTLE):

H.R. 2757. A bill to implement equal protection of the law to cover the right to life of each born and preborn human person from the moment of fertilization; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 2764. A bill to address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, authorization and direction to the Secretary of the Interior regarding Federal environmental impact statements for offshore water management reservoirs and associated facilities near the All American Canal; to the Committee on Resources.

By Ms. HARMAN (for herself, Mr. HASTINGS of Florida, Mr. HINCHY, Mrs. MINK of Hawaii, Mr. CROWLEY, Mr. SCHIFF, Mr. MCDERMOTT, Ms. JACKSON of Florida, Mr. MILLER of California, Mrs. PELOSI, Mr. WAXMAN, Mr. HUNTER of California, and Mr. OWENS):

H.R. 2765. A bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas (for herself and Mr. THOMPSON of Mississippi):

H.R. 2766. A bill to amend the Immigration and Nationality Act to modify the requirements for a child born abroad and out of wedlock to acquire citizenship based on the citizenship of the child’s father, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFERSON:

H.R. 2767. A bill to amend title 38, United States Code, to provide for maintenance at the American Battle Monuments Commission of a memorial park in Nairobi, Kenya, honoring the persons killed by the bombing of the United States Embassy; to the Committee on International Relations.

By Mrs. JOHNSON of Connecticut (for herself, Mr. STARK, Mr. CAMP, Mr. CARLIS, Mr. CRANE, Mr. DUNN, Mr. ENGEL, Mr. HAYWOUGH, Mr. SAM JOHNSON of Texas, Mr. KLECKZA, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. McCurry, Mr. MCNULTY, Mr. RAMSTAD, Mr. SHEAR, Mr. THURMAN, and Mr. WELLER):

H.R. 2768. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.R. 2769. A bill to amend title 19, United States Code, to prohibit the manufacture or importation, or transfer by a licensed firearm dealer, of a pistol that does not have a chamber load indicator, and in the case of a semiautomatic pistol that has a detachable magazine, to mechanically disable the pistol from being fired when the magazine is not attached; to the Committee on the Judiciary.

By Mr. LARSEN of Washington (for himself and Ms. BERKLEY):

H.R. 2774. A bill to establish a loan guarantee program for renewable energy source facilities; to the Committee on Financial Services.

By Mr. LEVIN (for himself, Mr. CASTLE, and Mr. WAXMAN):

H.R. 2789. A resolution to approve the treaty of title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program; to the Committee on Energy and Commerce.

By Mr. LOBIONDO (for himself, Mr. MENENDEZ, Mr. SAXTON, Mr. FALLONE, Mr. PASSELM, Mr. ROMTHAN, Mr. PAYNE, and Mr. HOLT):

H.R. 2776. A bill to designate buildings 315, 316, and 319 located at the Federal Aviation Administration’s William J. Hughes Technical Center in Atlantic City, New Jersey, as the “Frank R. Lautenberg Aviation Security Complex”; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY (for herself, Mr. CROWLEY, Mr. GILMAN, Ms. DELAURNO, Mr. SLAUGHTER, Mr. WAXMAN, Ms. DEGETTE, Mr. BAUCUS, Mrs. MORELLA, Mr. LEACH, and Mrs. BIGGERT):
H.R. 2777. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. MCCARTHY of New York (for herself, Ms. SCHAKOWSKY, Mr. PASCHEN, Mr. WEAVER, Mr. CAPPANO, Mrs. MALONEY of New York, Mr. CROWLEY, Mr. MCGOVERN, Ms. SOLIS, Mr. MOORE of Virginia, Mrs. TAUSCHER, and Mrs. LOWEY):

H.R. 2778. A bill to protect ability of law enforcement to effectively investigate and prosecute illegal gun sales and protect the privacy of the American people; to the Committee on the Judiciary.

By Ms. MCCOLLUM (for herself, Ms. BALDWIN, Mr. BLUMENAUER, Mr. FINE, Mr. MCGOVERN, and Mr. OBERSTAR):

H.R. 2779. A bill to repeal section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires the collection of immigration-related non-immigrant foreign students and other exchange program participants; to the Committee on the Judiciary.

By Mr. MCMILLIN:

H.R. 2780. A bill to amend the Federal Election Campaign Act of 1971 to establish a program of comprehensive elections grants that may receive public funding for carrying out campaigns for election for Federal office, to amend the Internal Revenue Code of 1986 to establish an income tax checkoff to provide funding for such program and to provide a refundable tax credit for individuals who make contributions to such candidates, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. BOHNER, Ms. ROUKEMA, Mr. BALLINGER, Mr. EHlers, Mr. TOM Davis of Virginia, Mr. ISAKSON, Mr. GOEDEN, Mr. OSBORNE, Mr. HORESTA, Mr. AMERINE, Mr. WALSH, Mr. CARSON, Mrs. KELLY, Mr. DE MINT, Mr. PETERSON of Pennsylvania, Mr. THOMAS, Mr. CALVERT, and Mr. HELLARY):

H.R. 2781. A bill to amend the Higher Education Act of 1965 to make certain interest rates changes permanent; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself, Mr. CAPITO, Mr. PUSHER, Mr. BALDACCI, Ms. SCHAKOWSKY, Mr. FRIST, Mr. BONORE, Mrs. JONES of Ohio, Mr. BORski, Mr. MCDERMOTT, Mr. WEIXLER, Ms. SANCHEZ, Mr. GUTHRIE, Mr. REZ, Mr. CLAY, Mr. CUMMINGS, and Mr. GREEN of Texas):

H.R. 2782. A bill to ensure that children enrolled in federal medical assistance programs at highest risk for lead poisoning are identified and treated, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDE-R-MCDONALD (for herself and Mr. NEILBURY):

H.R. 2783. A bill to amend title XIX of the Social Security Act to permit States to expand Medicaid eligibility to uninsured, poor adults; to the Committee on Energy and Commerce.

By Ms. MILLER-MCDONALD (for herself and Mr. NEILBURY):

H.R. 2784. A bill with respect to diabetes in minority populations, for an increase in the extent of activities carried out by the National Institute Diabetes and Digestive and Kidney Diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MINK of Hawaii:

H.R. 2785. A bill to amend the Immigration and Nationality Act to remove from an alien the initial burden of establishing that he or she is entitled to nonimmigrant status under section 101(a)(15)(B) of such Act, in the case of an alien seeking such status in order to take, as additional leave, parental involvement leave in order to attend to their children’s and grandchildren’s educational and extracurricular activities and to clarify that leave may be taken for routined parental involvement leave in the interest of the elderly relatives; for other purposes; to the Committee on the Judiciary.

By Mr. MORAN (for himself, Mr. SMITH of New Jersey, and Mr. SIMMONS):

H.R. 2786. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make service dogs available to disabled veterans and to make various other improvements in health care benefits provided by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. NADLER:

H.R. 2787. A bill to amend the Elementary and Secondary Education Act of 1965 to permit local educational agencies to use professional development funds to provide incentives, including bonus payments, to recognized educators who achieve an information technology certification that is directly relevant to the curriculum or content area in which the teacher provides instruction; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts (for himself, Mr. TOM Davis of Virginia, Ms. LOFLOREN, Mr. WELLER, Mr. MATSEL, Ms. DUNN, Mr. DOGGERTY, Mr. WOLF, Mr. HASTTT, Mr. FRANK, Mr. CANTOR, Mr. MORAN of Virginia, Mr. POMEROY, Ms. ESHOO, Mr. OSE, and Mr. MCGOVERN):

H.R. 2788. A bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000; to the Committee on Ways and Means.

By Mr. NETHERCUTT (for himself, Mr. CHAMBLISS, and Mr. CUNNINGHAM):

H.R. 2789. A bill to amend title 18, United States Code, to protect and promote the public safety and interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate, or interfere with plant or animal enterprises, and for other purposes; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. OXLEY, Ms. PRYCE of Ohio, Mr. GILLMOR, Mrs. JONES of Ohio, and Mr. TIBERI):

H.R. 2790. A bill to provide for the Federal Home Loan Bank Act to permit privately insured credit unions to become members of a Federal home loan bank; to the Committee on Financial Services.

By Mr. NEY:

H.R. 2791. A bill to amend title 18, United States Code, to provide specific penalties for taking a firearm from a Federal law enforcement officer; to the Committee on the Judiciary.

By Mr. OTTER:

H.R. 2792. A bill to amend the Federal Water Pollution Control Act to require plaintiffs to file certain bonds when bringing suit; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Ms. SCHAKOWSKY):

H.R. 2793. A bill to amend title XVIII of the Social Security Act to provide for coverage of pharmacist services under part B of the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period...
to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 2900. A bill to amend the Internal Revenue Code with respect to the purchase of prescription drugs by individuals who have attained retirement age, and to amend the Federal Food, Drug, and Cosmetic Act to provide for the importation of prescription drugs and the sale of such drugs through Internet sites; to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself and Mr. SCHAFFER):

H.R. 3052. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on tobacco products and the Highway Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself and Mr. POMEROY):

H.R. 3058. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed under section 44A(a)(1) of title 26, and the Immigration and Nationality Act in each fiscal year, to increase the number of such visas that may be allocated for employment of physicians and to exempt locally-owned hospitals in health professional shortage areas from certain requirements applicable to employment of physicians and to exempt such students as fall under section 101(a)(15) of title 8 of such Act; to the Committee on the Judiciary.

By Mr. REYES:

H.R. 2269. A bill to increase the total number of nonimmigrant visas that may be issued in a fiscal year under section 212(a)(15)(H)(i)(1)(C) of title 8 (relating to the Immigration and Nationality Act in each fiscal year) to increase the number of such visas that may be allocated for employment of physicians and to exempt such holders of visas as under section 101(a)(15)(H)(i)(b) of such Act; to the Committee on the Judiciary.

By Mr. REYES:

H.R. 2810. A bill to modify the benefits provided under the NAFTA Transitional Adjustment Assistance Program; to the Committee on Ways and Means.

By Mr. ROTHMAN:

H.R. 2811. A bill to improve the quality of life and safety of personal living and working near railroad tracks; to the Committee on Transportation and Infrastructure.

By Mr. SANDERS (for himself, Mr. KUCINICH, Mr. LEZ, Ms. MCKENNY, Mr. OWEEN, Mr. BRUNO of Florida, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. VANCE of North Carolina, Ms. NORTON, Mr. SIERRA, Mr. SOLIS, Mr. STARK, and Mr. WEINER):

H.R. 2812. A bill to amend the Fair Labor Standards Act to increase the Federal minimum wage to the value it had in 1968, and to provide for increases in such wage based on the cost of living; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Mr. CLAY, Mr. DeFazio, Mr. HINCHY, Mr. KUCINICH, Mr. LEZ, Mr. NORTON, Mr. STARK, and Mr. WEINER):

H.R. 2813. A bill to authorize States to regulate the rates for cable television service and to impose a one-year moratorium on increases in such rates; to the Committee on Energy and Commerce.

By Mr. SAWYER (for himself and Mr. BUXK of North Carolina):

H.R. 2814. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH (for himself, Mr. ROEMER, Mr. QUINN, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Mr. BROWN of Ohio, Mr. NORTON, Mr. DELAHUNT, Mr. BROWN of Ohio, Mr. WEXLER, Mr. CARSON of Indiana, Mr. MOORE, Mr. CUMMINGS, Mr. MERHAN, Mr. NADLER, Mrs. SOLIS, Mr. KENNEDY of Rhode Island, Mr. BALDacci, Mr. FRANK, Mr. KILDER, Mr. FROST, Mr. COYNE, Mr. PAUL of Kentucky, Mr. HUNT, Mr. Delaney, Mr. LANTOS, Mr. STRICKLAND, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. MENENDEZ, Mr. WOLF, Mr. KING, Mr. SANDERS of Vermont, Mr. Berman, Mr. Barrett, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WATT of North Carolina, Mr. PAYNE, Mr. COSTELLO, Mr. ROUSH, Mr. Katz, Mr. HUNTS, Mr. TIERNEY, Mr. KING of New York, Mr. BISHOP, Mr. FALCE, Mr. FARR of California, Mr. RUSH, Mr. BLUMENTHAL, Mr. MCKINNEY, Mr. ROUSH, Mr. SHIMKUS, Ms. NOLAN, Mr. COSTELLO, Mr. MILLER of Florida, Mr. COTTER, Mr. HUNTS, Mr. DEFAZIO, Mr. HINCHEY, Mr. DAVIS of Virginia, Mr. HAMPTON, Mr. RASSLETT, Mr. WATSON, Mr. ROUSH, Mr. COYNE, Mr. ROUSH, Mr. BUSH of Pennsylvania, Ms. SHAW, Mr. SANCHEZ, Mr. CAMPBELL, Mr. LAMM, Mr. THOMAS of Tennessee, Mr. SCHUSTER, Mr. KATICOFF, Mr. FLINT, Mr. DAVIS of Texas, Mr. WITTMAN, Mr. BLAYLOCK, Mr. ROS-LeHTINEN, Ms. WATSON, and Ms. WOOLSEY):

H.R. 2815. A bill to designate the Federal building located at 10th Street and Constitution Avenue, NW, in Washington, DC, as the "Robert F. Kennedy Department of Justice Building"; to the Committee on Transportation and Infrastructure.

By Mr. SIMMONS:

H.R. 2816. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of equipment to test for radon and to remove from the air any radon; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself and Mrs. JOHNSON of Connecticut):

H.R. 2817. A bill to provide for the effective punishment of online child molesters, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON:

H.R. 2818. A bill to authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State of Idaho to resolve an occupancy encroachment dating back to 1971; to the Committee on Resources.

By Mr. SMITH of Texas:

H.R. 2819. A bill to amend the Clayton Act with respect to the exemptions from the notoriety requirement in such Act; to the Committee on the Judiciary.

By Mr. STRICKLAND (for himself and Mr. NEY):

H.R. 2820. A bill to amend title 38, United States Code, to suspend for five years the authority of the Secretary of Veterans Affairs to increase the copayment amount in effect for medication furnished by title 38, United States Code, to improve the organization and management of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. THORNBERRY:

H.R. 2821. A bill to amend title 10, United States Code, to improve the organization and management of the Department of Defense with respect to space programs and activities, and for other purposes; to the Committee on Armed Services.

By Mrs. THRASHER (for herself, Mr. FOLEY, Mr. BOYD, Mr. DOYLE, Mr. FILER, Mr. GEKAS, Mr. HASTINGS of Florida, Mr. PETERSON of Pennsylvania, Mr. BLOUNT, Mr. ROS-LeHTINEN, Mr. WATSON, and Mr. WOOLSEY):

H.R. 2822. A bill to amend the Internal Revenue Code of 1986 to include compensation received for compulsory or involuntary commercial plant conversions...
as income or gain over a 10-year period; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. BOYD, Mr. HASTINGS of Florida, Mr. PUTNAM, and Ms. ROS-LEHTINEN):

H. R. 3323. A bill to amend the Internal Revenue Code of 1986 to expand the nontaxable exclusion which is currently allowed for citrus trees destroyed under public order due to the citrus tree canker may be replaced; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. BOYD, Mr. HASTINGS of Florida, Mr. PUTNAM, and Ms. ROS-LEHTINEN):

H. R. 2828. A bill to authorize refunds of corporate estimated taxes to September 1 for irrigation and drainage districts for operation and reserve works for water year 2001, and for other purposes; to the Committee on Agriculture.

H. R. 2830. A bill to restore the eligibility to the Committee on Ways and Means.

H. R. 2832. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to include citrus canker tree replacement payments made by the Secretary of Agriculture as income or gain over a 10-year period; to the Committee on Ways and Means.

By Mr. TOOMEY (for himself, Mr. FLAKE, Mr. FITTS, Mr. GOODE, Mr. HOKESKRA, Mr. RYUN of Kansas, Mr. CHABOT, Mr. TIAHHT, Mr. PENCE, Mr. VITTER, Mr. WELDON of Florida, Mr. WILSON of Virginia, and Mr. THURMAN):

H. R. 2823. A bill to amend the Economic Growth and Tax Relief Reconciliation Act of 2001 to change the October 1, 2001, due date for establishments of its financial commitments to September 24, 2001; to the Committee on Ways and Means.

By Mr. UNDERWOOD (for himself, Mr. PALEOMAVABA, and Mrs. CHRISTENSEN):

H. R. 2826. A bill to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on International Relations.

By Mr. WALDEN of Oregon (for himself, Mr. HERGER, Mr. POMIO, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H. R. 2827. A bill to respond to the economic disaster threatening certain farmers and communities resulting from the Federal Government’s denial of irrigation water for the Klamath Irrigation Project in the States of Oregon and California; to the Committee on Agriculture.

By Mr. WALDEN of Oregon (for himself, Mr. DEFAZIO, Mr. HERGER, Mr. POMIO, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H. R. 2826. A bill to authorize refunds of amounts collected from Klamath Project irrigation and drainage districts for operation and maintenance of the Project’s transferred and reserved works for water year 2001, and for other purposes; to the Committee on Resources.

By Mr. WALDEN of Oregon (for himself, Mr. HERGER, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H. R. 2823. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Resources.

By Ms. WATERS:

H. R. 2830. A bill to restore the eligibility to vote and register to vote in Federal elections to individuals who have completed sentences for criminal offenses, and for other purposes; to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMYE:

H. Con. Res. 208. Concurrent resolution providing for a conditional adjournment of the House of Representatives and adjournment of the 106th Congress, at the conclusion of the 106th Congress, of the Senate; agreed to.

By Mr. CALVERT:

H. Con. Res. 204. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should administratively provide for coverage under the Medicare benefit package for durable medical equipment in the case of a power failure; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FROST:

H. Con. Res. 216. Concurrent resolution expressing the sense of Congress regarding the establishment of Disability Arts Month; to the Committee on Government Reform.

By Mr. KING (for himself, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. MCCARTHY of California, Mr. FITTS, Mr. STARK, Mr. CAPUANO, Mr. OWENS, Mr. SOUDER, Mr. ENGLISH, Mr. DIAZ-BALART, Mr. EVANS, Mr. UNDERWOOD, Mr. CASTLE, and Mr. CHABOT):

H. Con. Res. 211. Concurrent resolution commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma; to the Committee on International Relations.

By Mr. RODRIGUEZ:

H. Con. Res. 212. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of William C. Velasquez, the national Hispanic civic leader; to the Committee on Government Reform.

By Mr. ROYCE (for himself, Mr. BECERRA, Ms. ROS-LEHTINEN, Mr. PAYNE, Mr. SMITH of New Jersey, Mr. ROHRABACHER, Mr. GLIMAN, Mr. KERN, and Mr. HORN):

H. Con. Res. 213. Concurrent resolution expressing the sense of the Congress that the Secretary of Veterans Affairs be directed to issue a commemorative postage stamp to honor the 50th anniversary of the establishment of the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SHAFER:

H. Con. Res. 214. Concurrent resolution expressing the sense of Congress that the President should issue a postage stamp commemorating the 80th Anniversary of the city of Lynwood, California, and its role as a flourishing community; to the Committee on Post Office and Civil Service.

By Mr. TIEGHART:

H. Con. Res. 215. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. UNDERWOOD:

H. Con. Res. 215. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. UNDERWOOD:

H. Con. Res. 215. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. UNDERWOOD:

H. Con. Res. 216. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. UNDERWOOD:

H. Con. Res. 215. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

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H. Con. Res. 215. Concurrent resolution expressing the sense of Congress regarding the United States Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.
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on Veterans’ Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as may be related to the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself, Mr. HAYWOOD, Mr. FLAKE, Mr. SHADE, Mr. KOLBE, Mr. ROYCE, Mr. TANCREDO, Mr. MILLER of Florida, Mr. NUSSELE, Mr. MANZULLO, Mr. HYDE, Mr. JOHNSON of Illinois, Mrs. BECHTELER, Mr. HOSTETTLER, Mr. GUT- KNECHT, Mr. THUNE, Mr. PAUL, Mr. BONILLA, Mr. GREEN of Wisconsin, Mr. STUMP, Mr. RADANOVICH, Mr. SMITH of Indiana, Mr. OTTER, Mr. WELLER, Mr. SOUNDER, Mr. BORENHER, Mr. PETRI, Mr. SENSIBRENNER, Mr. RYAN of Wisconsin, Mr. KENNEDY of Minnesota, Mr. CULBERSON, Mr. ISAIA, Mr. LATHAM, Mr. LEACH, Mr. GANSEK, Mr. SHIMKUS, Mr. CRANE, Mr. SKEEN, Mr. ROHRABACHER, Mr. DOOLEY of California, Mr. RUSH, Mr. DAVIS of Illinois, Mr. COSTELLO, Mr. JACKSON of Illinois, Mr. STUPAK, Mr. OBERTAR, Mr. SABO, Mr. TRAFCANTIF, Ms. BALDWIN, Mr. HARRETT, Mr. KIND, Mr. OBEY, Mr. KLECZKA, and Mr. PHELPS):

H. Res. 230. A resolution expressing the sense of the House of Representatives that Article II, Section 2 of the United States Constitution should not be used to renew the interstate economic protectionism of our Nation’s early history; to the Committee on the Judiciary.

By Mr. SHAH (for himself and Mr. WYNNE):

H. Res. 231. A resolution expressing the sense of the House of Representatives that National Child’s Day ought to be established; to the Committee on Government Reform.

By Mr. SWEENEY:

H. Res. 232. A resolution establishing a Select Committee on Medical Research; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows: H.R. 13: Mr. STRICKLAND.

H.R. 29: Mr. LEACH.

H.R. 41: Ms. NAPOLITANO.

H.R. 71: Mr. Davis of Illinois, Ms. MCKINNEY, Mr. CUMMINGS, and Mrs. JONES of Ohio.

H.R. 72: Mr. CUMMINGS.

H.R. 75: Mr. BONIOR, Mr. JACKSON of Illinois, Mrs. JONES of Ohio, Mr. BAYH of Pennsylvania, Mr. FROST, Mr. CUMMINGS, Mr. BALDACCI, Ms. BROWN of Florida, and Mr. MEEK of New York.

H.R. 96: Mr. DAVIS of Florida.

H.R. 122: Mr. WELLER.

H.R. 183: Mr. NADLER.

H.R. 197: Mr. FORBES, Mr. KINGSTON, and Mr. NORWOOD.

H.R. 265: Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. LOWEY.

H.R. 267: Mr. MCKON, Mrs. KELLY, Mr. GRUCCI, and Mr. JACKSON of Illinois.

H.R. 275: Mr. OSE.
H.R. 2719: Mr. Filner, Ms. McKinney, Mr. Frost, and Mr. Souder.
H.R. 2180: Mr. Condit.
H.R. 2230: Mr. Eshoo.
H.R. 2231: Mr. Capuano, Ms. Solis, and Ms. McKinney.
H.R. 2247: Mr. Lampson, Mr. Udall of Colorado, Mr. Hall of Texas, Mr. Baird, Ms. Riviera, Mr. Grijalva, Mrs. Morella, Mr. Borek, and Ms. Hart.
H.R. 2538: Mr. Russell.
H.R. 2251: Mr. Heflinghuryen, Mr. Goodlatte, Mr. Buxton, and Mr. Buxton.
H.R. 2288: Mr. Foley.
H.R. 2289: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2470: Mr. Burton.
H.R. 2345: Mr. Gene Green of Florida, Mr. Mel Davis of Texas, Mr. Cresenti, Mr. Georgette, Ms. Rosen, and Mr. Georgette.
H.R. 2460: Mr. Heflinghuryen, Mr. Goodlatte, Mr. Buxton, and Mr. Buxton.
H.R. 2539: Mr. Tim Ryan.
H.R. 2540: Mr. Wagner.
H.R. 2541: Mr. Herger, Mr. Condit, Ms. Baca, Mr. Sansom, Mr. Condit, Mr. Garamendi, Mr. Millard, Ms. McMillan, Mr. MILLER of California, and Mr. Price of Mississippi.
H.R. 2631: Mr. Nethercutt and Mr. Herger.
H.R. 2634: Mr. Yarmuth.
H.R. 2758: Mr. Baca, Mr. Calvert, Mr. Condit, Mr. Dooley of California, Mr. Farr of California, Mr. Hagedorn, Mr. Horn, Mr. Lantos, Mr. Lewis of California, Ms. Royall-Allen, Mr. Sherman, Ms. Solis, and Mr. Waxman.
H.R. 2695: Mr. Kucinich.
H.R. 2696: Mr. Quinn.
H.R. 2697: Mr. Cole, Mr. Carson of Indiana, Mrs. Clay, and Mr. Etheridge.
H.R. 2698: Mr. Johnson of Connecticut and Mr. Kennedy of Rhode Island.
H.R. 2699: Ms. Velazquez and Mr. Kucinich.
H.R. 2700: Mr. Frost, Mr. Sanders, and Ms. Ross.
H.R. 2701: Mr. Forbes.
H.R. 2702: Mr. Bonior, Mr. Borski, Ms. McKinney, and Mr. Pascrell.
H.R. 2703: Mr. Nethercutt and Mr. Kucinich.
H.R. 2704: Ms. Jackson-Lee of Texas, Mr. Osborn, and Mr. Davis of Illinois.
H.R. 2705: Ms. Clay, Mr. Bryant, Mr. Steve Beshear, Mr. Frank Mr. Price of Mississippi.
H.R. 2706: Mr. Andrews, Mr. Tiahrt, Mr. McCollum, Mr. Goodlatte, Mr. Baca, and Mr. Rangel.
H.R. 2707: Mr. Sanchez, Mr. Lowey, Ms. Harker, Mr. McCollum, Mr. Goodlatte, Mr. Baca, and Mr. Rangel.
H.R. 2708: Mr. Baca, Mr. Calvert, Mr. Condit, Mr. Dooley of California, Mr. Farr of California, Mr. Hagedorn, Mr. Horn, Mr. Lantos, Mr. Lewis of California, Ms. Royall-Allen, Mr. Sherman, Ms. Solis, and Mr. Waxman.
H.R. 2709: Mr. Kucinich.
H.R. 2710: Mr. Quinn.
H.R. 2711: Mr. Cole, Mr. Carson of Indiana, Mrs. Clay, and Mr. Etheridge.
H.R. 2712: Ms. Johnson of Connecticut and Mr. Kennedy of Rhode Island.
H.R. 2713: Ms. Velazquez and Mr. Kucinich.
H.R. 2714: Mr. Frost, Mr. Sanders, and Ms. Ross.
H.R. 2715: Mr. Forbes.
H.R. 2716: Mr. Bonior, Mr. Borski, Ms. McKinney, and Mr. Pascrell.
H.R. 2717: Mr. Nethercutt and Mr. Kucinich.
H.R. 2718: Mr. Andrews, Mr. Tiahrt, Mr. McCollum, Mr. Goodlatte, Mr. Baca, and Mr. Rangel.
H.R. 2719: Mr. Souder.
H.R. 2720: Mr. Eshoo.
H.R. 2721: Mr. Lantos and Mr. Rothman.
H.R. 2722: Mr. Stark, Ms. Woolsey, and Mr. Baca.
H.R. 2723: Ms. Carson of Indiana, Mr. Brown of Ohio, and Mr. Diaz-Balart.
H.R. 2724: Mr. Heflinghuryen, Mr. Goodlatte, Mr. Buxton, and Mr. Buxton.
H.R. 2725: Mr. Lampson, Mr. Udall of Colorado, Mr. Hall of Texas, Mr. Baird, Ms. Riviera, Mr. Grijalva, Mrs. Morella, Mr. Borek, and Ms. Hart.
H.R. 2726: Mr. Russell.
H.R. 2727: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2728: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2729: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2730: Mr. Watson.
H.R. 2731: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2732: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2733: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2734: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
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H.R. 2736: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2737: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
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H.R. 2743: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2744: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
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H.R. 2746: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2747: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2748: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2749: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2750: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2751: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2752: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2753: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2754: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2755: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
H.R. 2756: Mr. Jefferson, Mr. Buentello, and Mr. Watson.
DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 719: Mr. Phelps.
H.R. 2037: Mr. Sensenbrenner.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:


DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members’ names were withdrawn from the following discharge petitions:

Petition 2 by Mr. INSLEE on House Resolution 165: Dennis Moore.
Petition 3 by Mr. TURNER on House Resolution 166: Wm. Lacy Clay.
STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. BINGAMAN (for himself and Mr. HATCH):

S. 1302. A bill to authorize the payment of a gratuity to members of the Armed Forces and civilian employees of the United States who performed slave labor for Japan during World War II, or the surviving spouses of such members, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BINGAMAN. Madam President, during the last Congress, I introduced the Bataan-Corregidor Veterans Compensation Act to recognize American veterans who served at Bataan and Corregidor during World War II and were captured, held as prisoners of war, and forced to perform slave labor to support the Japanese war effort. That bill helped bring attention to the plight of Americans captured and enslaved in the Pacific theater at a time when our Government undertook important efforts on behalf of enslaved victims of Nazi oppression in Europe. I believe that our government should also take action on behalf of those who were enslaved in the Pacific theater. Since the waning days of those heroes are quickly passing, the time to take action on this important matter is now.

Today I am introducing an updated version of last year's bill, now entitled the World War II Pacific Theater Veterans Compensation Act, to acknowledge the contributions of all ex-prisoners of war in the Pacific who were forced into slave labor by the Japanese. The bill would award a gratuity of $20,000 to each surviving veteran, government, or government contractor employee who was imprisoned by the Japanese during World War II and forced to perform slave labor to support Japan’s war effort. The bill would also extend that gratuity to surviving spouses of such veterans or employees. I believe that this bill is both necessary and appropriate, particularly as those Americans who sacrificed so much approach their final years. Why is it necessary? First, because Americans who were enslaved by Japan have never been adequately compensated for the excruciating experiences they made while in Japanese military and company prisons and labor camps. In the War Claims Acts of 1948 and 1952, our Government paid former U.S. prisoners of war $1.00 per day for “missed meals” during their captivity, and later, $1.50 per day for “forced labor pains” and suffering.” Even those paltry compensations were not widely known about or received by all veterans who qualified for them. Second, this bill is necessary since ongoing efforts to obtain appropriate compensation from the government of Japan, or from Japanese companies through litigation, have been unsuccessful and are not likely to succeed in a timely enough manner to compensate surviving veterans or others who would be eligible.

My colleagues might ask, “Why is this bill appropriate?” If enacted into law, it would have our own government recognize the vital military contributions made by members of the Armed Forces and civilians employed by the government in the Pacific theater, and would compensate those heroes for the many sacrifices they were forced to make at the hands of their Japanese captors. From December 1941 to April 1942, for example, American military forces stationed in the Philippines fought valiantly for almost six months against overwhelming Japanese military forces on the Bataan peninsula. As a result of that prolonged conflict, U.S. forces prevented Japan from achieving its strategic objective of capturing Australia and thereby dooming Allied hopes in the Pacific theater from the outset of the war.

Once captured by the Japanese, American prisoners of war in the Philippines endured the infamous “Death March” during which approximately 730 Americans died to the notorious Japanese prison camp north of Manila. Of the survivors of the March, more than 5,000 more Americans perished during the first six months of captivity. The Japanese forced many of those who survived captivity to embark on “hell ships”—unmarked merchant ships—to be transported to Japan to work as slave laborers in company-owned mines, shipyards, and factories. How tragic and cruel it was that many of our own men perished in those experiences on family and loved ones—merit the recognition that I propose in this legislation.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
I believe the Congress should act as soon as possible to enact this legislation into law. These brave heroes are leaving us at an increasing rate each year while the court system struggles to resolve the compensation claims of worthy American heroes. The time to act is now. Justice and honor may not ever be served. I thank Senator HATCH for agreeing to cosponsor this legislation, and I urge my fellow Senators to support it.

By Mr. KERRY:

S. 1303. A bill to amend title XVII of the Social Security Act to provide for coverage under the Medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. The Kidney Patient Daily Dialysis Quality Act of 2001 will update the Medicare program to reflect the current state of medical science on the efficacy of hemodialysis by eliminating the limitation on the number of sessions now covered by Medicare. Finally, this bill will increase Medicare beyond its conventional coverage of three hemodialysis sessions per week to provide coverage of more frequent hemodialysis, as defined by at least five times a week at a dialysis facility or in the home, if determined appropriate by a patient’s physician.

ESRD is irreversible kidney failure. Without treatment or transplantation, death invariably results. Unfortunately, the number of Americans with ESRD is growing at a rate of 6 percent to 7 percent per year, and this population is projected to double over the next ten years. Due to the shortage of organs available for transplantation, almost 90 percent of patients with ESRD received hemodialysis treatment three times per week. This has been standard policy since 1972, when Congress created the Medicare End Stage Renal Disease Program. This program has been enormously successful in saving hundreds of thousands of lives, and increasing the life expectancy for hundreds of thousands of others with this terrible disease. However, the program now needs to be modernized.

Today, scientific and medical evidence shows that more frequent hemodialysis enhances the health of patients with ESRD by improving toleration of dialysis, high blood pressure and anemia control, cardiovascular status, nutrition, quality of sleep, mental clarity, and increasing energy and strength. In addition to these improvements in patient health, and subsequent reductions in required medications and hospitalizations, daily hemodialysis can significantly reduce costs to the Medicare program. According to a Projections Corporation, more frequent hemodialysis could save the Medicare program between $120 million and $260 million per year.

The Kidney Patient Daily Dialysis Quality Act of 2001 stands to improve the quality of life for hundreds of thousands of Americans suffering from kidney failure. Scientific evidence supports the promise of this legislation and modernists to provide it, it is time to deliver.

By Mr. KERRY:

S. 1304. A bill to amend title XVII of the Social Security Act to provide for coverage under the Medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. My legislation will update the Medicare program to provide patients with better treatment for ESRD by providing coverage of oral prescription medications that reduce the serum phosphate levels in dialysis patients.

Patients with ESRD cannot eliminate dietary phosphorus and, without undergoing a kidney transplant, risk developing a condition known as hyperphosphatemia. Renal dysfunction and the hospitalization that accompanies it, can be prevented through the use of phosphate binding drugs, which are taken orally with meals and bind to dietary phosphorus, thereby reducing absorption in the body. Making phosphate binders available to Medicare-eligible ESRD patients makes both medical and economic sense. Not only do these medications improve the quality of life for patients with kidney failure, but they stand to reduce overall Medicare costs associated with treating patients who develop hyperphosphatemia.

A recent scientific study by the U.S. Renal Data System found that the use of one such medicine, sevelamer, on average, $17,328 per patient on an annual basis.

Under current law, ESRD patients are prohibited from enrolling in Medicare+Choice plans. Many ESRD patients are also ineligible for Medicare+Choice plans. ESRD patients are also ineligible for “Medigap” coverage as 63 percent of the patients are under the age of 65. Thus, ESRD patients are denied access to the only existing mechanisms under which Medicare enrollees can obtain prescription drug coverage.

ESRD patients are among the sickest, poorest, most likely to be disabled, and most frequently hospitalized of all Medicare beneficiaries. In light of the shortage of organs available for transplant, it is imperative that we do all we can to supplement traditional hemodialysis treatment and improve the quality of life for these patients. Scientific evidence supports the promise of phosphate binding drugs to enhance the health of Americans with ESRD, and it is time that every patient realize that promise.

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

S. 1305. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

Mr. GRAHAM. Madam President, today, together with my Finance Committee colleague, Senator GRASSLEY, I am introducing the Professional Employer Organization Boycott Act of 2001. Companion legislation is being introduced in the House by Representatives CARDIN and PORTMAN. This legislation expands retirement and health benefits for workers at small and medium-sized businesses in this country.

This bill is a narrower version of a bill that I sponsored in the last Congress, S. 2979, the Graham-Mack bill. Our new bill incorporates several improvements recommended by interested parties over the course of the past several years. Most significantly, the scope of this bill has been limited to address technical issues that were raised by the Treasury, Internal Revenue Service, and the Labor Department. I think it is fair to say that a much improved version of this proposal has emerged, one that ensures that the legislative objective of expanding retirement and health coverage is achieved, while also ensuring that other important Federal policies are not affected. I am very pleased that the Commissioner of the IRS, in a letter sent to one of the House companion bill sponsors recently, has indicated his interest in seeing this legislation enacted in a timely fashion.

In brief, this bill would permit certified professional employer organizations, PEOs, to assist small and medium-sized businesses in complying with the multiple responsibilities of being an employer. It does this by permitting the PEOs to accept responsibility for employment taxes and provide employee benefits to workers in small businesses. These workers, the PEO’s pension, health and other benefits represent benefits that the worker would not have received otherwise because they are too costly for the small business to provide on its own. PEOs provide the economies of scale necessary to provide health and retirement benefits in an affordable and efficient manner.

Congress must take every opportunity to encourage and provide retirement and health benefits to their employees. PEOs offer one creative way to bridge the gap between what workers need and what small businesses can afford to provide them. This legislation would provide a way to make it clear that PEOs meeting certain standards will be able to offer those needed employee benefits and collect Federal employment taxes for their business customers.

In addition, I would like to make clear what this bill does not do. Unlike certain other bills, this bill applies only to PEOs, i.e., arrangements where
the PEO accepts responsibility for all or almost all of the workers at a worksite. It does not have anything to do with temporary staffing agencies or similar arrangements. Further, this bill by its terms applies only to the two areas of the tax law I have mentioned, employment tax and employee benefit laws. It does not affect any other law, nor does it affect the determination of who is the employer for tax law or any other purpose. The bill specifically states that it creates no inference and goes to those issues.

I am hopeful that, with this narrower focus, this legislation can be considered quickly on its own merits, without getting bogged down in the disputes over the so-called contingent workforce and independent contractor issues, issues that are not addressed in this bill. While those are important issues that Congress may want to examine, we should not allow those complex issues to delay resolution of the unrelated employment address issues addressed by this bill. We believe that the changes made by our legislation will help expand retirement and health plan coverage both in the short-term and the longer run.

I look forward to working with Senator GRASSLEY and my other colleagues on the Finance Committee and the Administration in moving this bill during this Congress so that we can begin to address the difficulties faced by small businesses and their workers in obtaining benefits and meeting the other requirements of operating in an increasingly globalized economy.

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

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

S. 1005
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE
This Act may be cited as the “Professional Employer Organization Workers Benefits Act of 2001.”

SECTION 2. INFRINGEMENT
Nothing contained in this Act or the amendments made by this Act shall be construed to create any inference with respect to the determination of who is an employer or employee:

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by section 3), or

(2) for purposes of any other provision of law.

SEC. 3. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS

(a) EMPLOYER-BENEFIT TAXES.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

*SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.*

(a) GENERAL RULES.—For purposes of the taxes imposed by this title, a certified professional employer organization shall be treated as the employer of work site employees performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

(2) the exemptions and exclusions which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a) and 3306(b)(1):

(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer, and

(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

(c) LIABILITY WITH RESPECT TO INDIVIDUALS PURPORTED TO BE WORK SITE EMPLOYEES.—

(1) GENERAL RULES.— Solely for purposes of its liability for the taxes imposed by this subtitle:

(A) the certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (e)) who performs services by a contract meeting the requirements of section 7706(e)(2)(F), but only with respect to remuneration paid by such organization to such individual,

(B) the exemptions and exclusions which would (but for subparagraph (A)) apply shall apply with respect to such taxes imposed on such remuneration,

(C) (I) SPECIAL RULE FOR RELATED PARTY.—Subsection (a) shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting ‘‘10 percent’’ for ‘‘50 percent’’

(ii) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from services performed for a certified professional employer organization shall be treated as an individual with self-employment earnings derived from services performed for a customer.

(ii) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(b) EMPLOYER BENEFITS.—Section 414 of such Code (relating to definitions and special rules) is amended by adding at the end the following new subsection:

*SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—*

(1) PLANS MAINTAINED BY CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a plan or program established or maintained by a certified professional employer organization to provide employee benefits to work site employees, then, for purposes of applying the provisions of this title applicable to such benefits:

(i) such plan shall be treated as a single employer plan established and maintained by the organization,

(ii) the organization shall be treated as the employer of work site employees eligible to participate in the plan, and

(iii) the portion of such plan covering work site employees shall not be taken into account in determining the remaining portion of such plan or to any other plan established or maintained by the certified professional employer organization providing employee benefits (other than to work site employees).

(B) SPECIAL EXCEPTIONS IN APPLYING RULES TO BENEFITS.—

(i) IN GENERAL.—In applying any requirement listed in clause (iii) to a plan or program established by the certified professional employer organization:

(1) the portion of the plan established by the certified professional employer organization which covers work site employees performing services for such customer shall be treated as a separate plan of the customer (including for purposes of any disqualification described in section 4975(e)(2)), a 2-percent shareholder (as defined in section 1372(b)(2), or a shareholder-employee (as defined in section 4975(f)(6)(C)), but for the relationship with the certified professional employer organization, shall be treated as a self-employed individual, disqualified person, a 2-percent shareholder, or shareholder-employee for purposes of rules applicable to employee benefit plans maintained by such certified professional employer organization.

(ii) LISTED REQUIREMENTS.—The requirements listed in this clause are:

(I) NONDISCRIMINATION AND QUALIFICATIONS.—Sections 79(d), 105(c), 125(b), 125(b)(2) and (3), 129(d)(2), (3), (4), and (5), 132(j)(1), 274(j)(3)(B), 401(a)(4), 401(a)(7), 401(a)(26), 401(k)(3) and (12), 401(m)(2) and (11), (4) (in the case of a plan of a separate plan of a customer with respect to the conversion of a customer to a customer), 401(o), 401(b), 412, 414(q), 415, 416, 419, 422, 423(b), 505(b), 4972, 4973, 4974, 4978, and 4979.

(ii) SIZE.—Section 223, 401(k)(1), 401(m)(10), 408(k), and 408(p).

(iii) ELIGIBILITY.—Section 401(k)(4)(B).

(iv) AUTHORITY.—Such other similar requirements as the Secretary may prescribe.

(v) WELFARE BENEFIT FUNDS.—With respect to a welfare benefit fund maintained by a certified professional employer organization for the benefit of work site employees performing services for a customer, section 401 shall be treated as not listed in clause (iii)(I) if the fund provides only 1 or more of the following:

(I) Medical benefits other than retiree medical benefits.

(II) Disability benefits.

(III) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed or pledged for collateral for a loan.

(v) EXCISE TAXES.—Notwithstanding clause (iii), the certified professional employer organization and the customer performing services for such customer shall be jointly and severally liable for the tax imposed by section 4971 with respect to failure to meet the minimum funding requirements imposed by section 4976 with respect to funded welfare benefit plans.
(vi) Continuation Coverage Requirements.—For purposes of applying the provisions of section 4980B with respect to a group health plan maintained by a certified professional employer organization for the benefit of work site employees:

(I) Termination of Employment Events.—Each of the following events shall constitute a termination of employment with respect to any work site employee for purposes of section 4980B(b)(3)(B):

(aa) The work site employee ceasing to provide services to any customer of such certified professional employer organization.

(bb) The work site employee ceasing to provide services to any customer of such certified professional employer organization and becoming a work site employee with respect to another customer of such certified professional employer organization.

(cc) The termination of a service contract between the certified professional employer organization and the customer with respect to which the work site employee performs services, provided, however, that such a contract termination shall not constitute a termination of employment under section 4980B(b)(3) with respect to the work site employee at the time of such contract termination, such customer maintains a group health plan (other than a plan providing only excepted benefits with respect to which the work site employee was covered under sections 9831 and 9832 or a plan covering less than two participants who are employees).

(II) New Coverage Date When Termination Event Constitutes Qualifying Event.—For purposes of subparagraph (I), a new coverage date shall be the first date on which—

(aa) the customer maintains a group health plan other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees; or

(bb) a service contract between such customer and another certified professional employer organization ceases to be covered under a group health plan of such other certified professional employer organization other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees.

(III) Coverages Available to Qualified Beneficiaries.—In the case of a plan maintained by a certified professional employer organization, the provisions of this title based on compensation which affects employee benefit plans, compensation received from the customer with respect to which the work site employee performs services shall be taken into account together with compensation received from the certified professional employer organization.

(III) Coverage Date Shall Be the First Date On Which the Plan Became Effective Under the Arrangement Between the Certified Professional Employer Organization and the Customer.

(vii) Coverage for Qualified Beneficiaries.—As of the date that a certified professional employer organization’s group health plan ceases to be covered under a service contract described in section 4980B(b)(3) with respect to another customer of such certified professional employer organization, the individual formerly treated as a work site employee for purposes of the liability for tax under section 4980B, the person or entity required to provide continuation coverage under this clause to the plan maintained by the professional employer organization, but

(1)(B)(iii), a controlled group which includes a transfer of property described in section 401(a) which includes a trust exempt from tax under section 501(a), and any plan or plan contract described in section 403, the portion of a plan which consists of a transfer of property described in section 83, the portion of a plan which consists of a trust to which section 402(b) applies, or a qualified governmental excess benefit arrangement described in section 415(m).

(5) Special Rules Where Multiple Plans Are Maintained by a Certified Professional Employer Organization and Plans Maintained by Their Customers.—

(A) In General.—For purposes of applying section 415 with respect to a plan maintained by a certified professional employer organization, the portion of a plan which consists of a transfer of property described in section 83, the portion of a plan which consists of a trust to which section 402(b) applies, or a qualified governmental excess benefit arrangement described in section 415(m).

(B) Minimum Benefit.—If a minimum benefit is required to be provided under section 416, such benefit shall be, to the extent possible, provided through the plan maintained by the certified professional employer organization.

(6) Termination of Service Contract Between a Certified Professional Employer Organization and Customer.—

(A) In General.—

(1) Treatment of Successor Plan.—If a successor contract between a certified professional employer organization or the customer and another certified professional employer organization is terminated and work site employees of the customer were covered by a plan maintained by the successor organization, the provisions of regulations, any plan of another certified professional employer organization or the customer which covers such work site employees shall be treated as a successor plan for purposes of any rules governing in-service distributions.
such plan in accordance with plan terms.

with the terminated customer only in a di-

section 401(k)(3)(D)(ii)(I) and earnings attrib-

within the meaning of section 401(m)(4)(C))

attributable thereto, and

subparagraph (A)(ii) applies, the certified

required by this title, in any case to which

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true rollover described in section 401(a)(31),

of subparagraph (A)(ii)

of subparagraph (A)(ii)

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test under subparagraph (A) for the individual performing services for the customer at such work site. In determining whether non-contiguous locations are reasonably proximate, all facts and circumstances shall be taken into account.

(iv) WORK SITES 35 MILES OR MORE APART.—Any work site which is separated from all other customer work sites by at least 35 miles shall not be treated as reasonably proximate under clause (iii).

(v) DIFFERENT INDUSTRY.—A work site shall not be treated as reasonably proximate to another work site under clause (iii) if the work site operates in a different industry or industries from such other work site as determined by the Secretary.

(f) EMPLOYER AGGREGATION RULES.—

(1) IN GENERAL.—For purposes of subsections (c)(2)(B)(ii), (c)(4) and (e), all persons treated as a single employer under section 414(b), (c), (m), or (o) of section 411 shall be treated as 1 person.

(2) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—For purposes of subsection (b)(4), if certified professional employer organizations are part of a controlled group, then the certified professional employer organizations (but no other member of the controlled group) shall be treated as 1 person.

(3) QUALIFIED PLANS.—For purposes of subsection (b)(4)—

(A) a qualified plan (as defined in section 408(p)) shall be considered maintained by, or an arrangement to provide a simple retirement account (within the meaning of section 408(p)) to, a customer with respect to a work site employee performing services for such customer shall be treated as if it were maintained by the applicable, and

(B) work site employees who do not meet the minimum age and service requirements during the taxable year to the State unemployment fund with respect to a work site employee, the employer of a worksite employee, the customer with respect to whom a worksite employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than the time as the Secretary shall prescribe.

(g) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 414(w) or 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

(h) REGULATIONS.—The Secretary shall prescribe regulations as necessary or appropriate to carry out the purposes of this section and section 414(w) and 652(b).

(i) CONFORMING AMENDMENTS.—

(1) Section 45B of such Code is amended by adding at the end the following new subsection:

(“e) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee who is a tipped employee, the credit determined under this section does not apply, but does apply to the customer of such organization. For this purpose the customer shall take into account any remuneration and taxes remitted by the certified professional employer organization.”.

(2) Section 707 of such Code is amended by adding at the end the following new subsection:

(“d) PAYMENTS TO CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a partnership that is a customer of a certified professional employer organization (as defined in section 7705) makes a payment to such an organization on behalf of a partner, and the payment, if made directly to the partner, would be treated as a guaranteed payment under section 707(c), the partnership shall treat the payment as if it were a guaranteed payment made to a partner. To the extent that the relevant partner receives all or any portion of such a payment, such partner shall be treated as receiving a guaranteed payment for purposes of section 7705.”.

(3) Section 3302 of such Code is amended by adding at the end the following new subsection:

(“h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705) or a client of such organization makes a payment to the State’s unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section in respect of such payment.

(4) Section 3303(a)(1) of such Code is amended—

(A) by striking the period at the end of paragraph (3) and inserting “;” and “;

(B) by inserting immediately after paragraph (3) the following new paragraph:

“(4) a certified professional employer organization (as defined in section 7705) is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions withheld from the State’s unemployment fund with respect to a work site employee.”; and

(C) in the last sentence—

(1) by striking paragraphs (1), (2), and (3) and inserting paragraphs “(1), (2), (3), and (4)”; and

(2) by striking “paragraph (3), (4)” and inserting “paragraph (1), (2), (3), and (4)”.

(5) Section 6525(c) of such Code is amended by adding at the end the following new paragraph:

“(g) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this Act, the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee, the employer of a worksite employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than the time as the Secretary shall prescribe.”.

(6) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 25 of such Code is amended by inserting after the following new item:

“Sec. 3511. Certified professional employer organizations.”.

(2) The table of sections for chapter 79 of such Code is amended by inserting after the following new item relating to section 7704 the following new item:

“Sec. 7705. Certified professional employer organizations.”.

(i) REPORTING REQUIREMENTS AND OBLIGATIONS.—

(1) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this Act with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(2) USER FEES.—Subsection (b) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end the following new paragraph:

“(g) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—The fees under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 of the Internal Revenue Code of 1986 shall not exceed $500.”.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the later of—

(A) January 1, 2003, or

(B) the January 1st of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAMS.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986 (as added by subsection (c) of this section) not later than 3 months before the effective date determined under paragraph (1).

(3) TRANSITION ISSUES.—For years beginning before the effective date specified in paragraph (1), subject to such conditions as the Secretary of the Treasury may prescribe, employee benefit plans in existence on the date of the enactment of this Act not be treated as failing to meet the requirements of the Internal Revenue Code of 1986 merely because such plans were maintained by an organization that became a certified professional employer organization (as defined by section 7705 of such Code (as so added)).

By Mr. BAUCUS (for himself, Mr. HARKIN, Mr. LOTT, Mr. JEFFORDS, Mr. WARNER, Mrs. LINCOLN, Mr. SMITH of New Hampshire, Mr. BACHUS, Mr. CRAPO, Mr. BURNS, Mr. THOMAS, Mr. BOND, Mr. DEWINE, Mr. GRAMM, Mr. HUTCHINSON, Mr. LIEBERMAN, Ms. LANDRIEU, and Mr. ENZI):

S. 1306. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Madam President, I rise today to introduce a piece of legislation that will help ensure that the Trust is restored to the Highway Trust Fund.

The Highway Trust Fund Recovery Act, HTFRA, of 2001 will direct 2.5 cents from the sale of gasohol into the Highway Trust Fund beginning in Fiscal Year 2004.

This bill is important for several reasons. First, the bill confirms the job for Montana, and others throughout the country. Second, the bill will ensure that much needed highway improvements are made throughout the country. Third, this bill means more jobs for Montanans and others throughout the country.

It is, in short, the right thing to do. By way of background, the gas tax was established for one simply reason: to finance the construction of the national highway system. In 1993, there was a departure. The tax was increased, by 4.3 cents a gallon. And, for the first time, the tax was...
used not for the highway program, but instead for deficit reduction. I supported the increase, reluctantly, as part of an overall compromise that was a key step towards balancing the budget. Even so, many of us were determined to restore the principle that the gas tax should only be used to fund our highway and related transportation programs. We worked, as we said, to “put the trust back in the trust fund.”

If that fight was tough, we faced tough opposition, from the Administration, the budget committees, and elsewhere. But, in the end, we prevailed. During the Senate’s consideration of the 1998 highway bill, we provided that the entire gas tax, including the 4.3 cents, would go into the Highway Trust Fund and be used exclusively for highway construction and other transportation needs. When an amendment was offered to repeal the 4.3 cents tax, it was defeated.

Don’t get me wrong. Nobody likes taxes. But, since its inception, the gas tax is how we get money to pay for our highways. As these things go, the gas tax has worked well.

Ensuring necessary and affordable energy supplies, including ethanol-blended motor fuels and other initiatives, is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

Under current law, ethanol enjoys an exemption from current excise tax rates. This exemption allows the price of gasohol, ethanol mixed with gasoline, to be lower than the price of gasoline. Two and one half cents from the sale of this lower priced fuel is still sent to the General Fund of the U.S. Treasury. It should be going to the Highway Trust Fund.

Let me explain what the Highway Trust Fund Recovery Act of 2001 would mean for our nation’s highway program. At least $400 million a year would now go where it belongs, toward the maintenance of our Nation’s highways.

I’ll get right to the point. Most of my colleagues were here for the highway bill debate. You know how difficult it was. You know how hard we fought to make sure that each of our states would get our fair share of transportation funding to support our transportation needs.

We still need more. As was made clear in the debate over TEA-21 in 1998, America still has a significant shortfall in funding when it comes to maintaining a serviceable highway system. The Department of Transportation estimates that the Nations requires $56.6 billion annually just to maintain existing road and bridge conditions on our Federal highway system. Yet TEA-21 meets only 56 percent of that need.

This 25 cent shortfall means that thousands of hard-working folks who show up every day, in good weather and bad, to build our roads and improve our communities will have jobs to go to. These are people who depend on their jobs to support themselves and their families.

Pulling this all together, the Congress needs to find a way to enhancing the Nation’s major new transportation programs. The Highway Trust Fund Recovery Act of 2001 is a step in the right direction.

There’s one final point.

For the past few years, Congress has been criticized for putting partisan politics ahead of the public interest. In short, of not getting much done.

There have been some notable exceptions. Balancing the budget. Reforming the welfare system.

And, yes, reaching a bipartisan compromise on the 1998 highway bill, TEA-21. That bill did not just authorize the highway program. It renewed and revitalized the highway program. We passed it overwhelmingly, by a vote of 98-5. It was a triumph.

We can confirm that accomplishment by passing the Highway Trust Fund Recovery Act of 2001.

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Highway Trust Fund Recovery Act of 2001”.

SEC. 2. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) In General.—Section 9503(b)(4) of the Internal Revenue Code of 1986 (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding “or” at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received in the Treasury after September 30, 2003.

Mr. VINOIVICH. Madam President, I rise today to join my colleague, Senator MAX BAUCUS, in introducing The Highway Trust Fund Recovery Act of 2001. The tax treatment of ethanol-blended fuels is an issue that is disturbingly out of proportion with the importance of Federal highway funding States receive, serving as a disincentive to ethanol use, and impacting our ability to address fully our highway improvement needs. The legislation we are introducing today addresses this problem by ensuring that the portion of the per gallon Federal tax on ethanol-blended fuels which is currently deposited into the General Fund is deposited into the Highway Trust Fund instead.

As my colleagues may be aware, the Federal tax on gasohol, that does not contain ethanol is 18.4 cents per gallon, whereas the Federal tax on gasohol, a blend of gasoline and ethanol, is 13.0 cents per gallon. The 5.4 cents per gallon tax difference is meant to keep the price of ethanol down, and serve as an incentive to help promote ethanol’s use as a renewable and alternative fuel.

The 18.4 cents per gallon tax on gasohol is one of the major reasons to the Highway Trust Fund. The money that accumulates in the Highway Trust Fund is used for highway, highway safety, transit, and other surface transportation programs.

The 5.4 cents per gallon tax on ethanol-blended fuels is deposited into the General Fund, instead for deficit reduction.

The bill we are introducing today, the Highway Trust Fund Recovery Act, would ensure that the remaining 2.5 cents per gallon tax paid by highway users on ethanol-blended fuels is deposited into the Highway Trust Fund. Under this bill, annual deposits to the Highway Account would increase by some $400 million per year based on current gasohol sales.

Ohio has the Nation’s 10th largest highway network, the 5th highest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country. While Ohio’s traffic and congestion have risen, its Federal receipts have not risen commensurately because of the different tax treatment of ethanol-blended fuels.

The reason for this disproportion is because Ohio’s uses of gasohol is among the highest in the Nation. 40 percent of the state’s gasoline consumption in 2000 compared to a national average of around 10 percent. Since Ohio’s Federal appropriation under the Transportation Equity Act for the 21st Century, TEA-21, is determined by its contribution to the Highway Trust Fund, and gasohol is taxed differently than conventional gasoline, gasohol consumption has significantly decreased the amount of revenue credited to Ohio in the Highway Trust Fund.

It’s simple: less money in means less money out.

According to the Ohio Department of Transportation, ODOT, Ohio is losing more than $160 million per year due to gasohol consumption. To put that number in perspective, it equals 17 percent of Ohio’s total obligation ceiling; over one half of the State’s major new construction program budget; and it nearly equals the amount the State budgets for routine bridge repair and replacement for one year. Out of that $160 million figure, the state is losing more than $50 million simply because 2.5 cents of the Federal tax on gasohol...
are deposited into the General Fund. This amount is 5 percent of the Ohio’s total obligation ceiling; one-sixth of Ohio’s major new construction program; and equal to the amount ODOT budgets for safety improvement projects for each year period.

The 11 States that make up the Mississippi Valley Conference of the American Association of State Highway and Transportation Officials, AASHTO, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, account for 70 percent of the Nation’s ethanol consumption. The Federal fuel tax rate for ethanol impacts this region more than any other region of the country. If the legislation we are introducing were enacted today, this region alone would receive over $225 million more in additional highway funding.

My State of Ohio has made the environmentally sound decision to utilize ethanol in order to keep the air clean; we should not be penalized with fewer highway dollars for doing the right thing.

Our legislation would not affect the highway formulas or distribution of funds under TEA-21, and it does not take effect until fiscal year 2004, after the expiration of TEA-21. It is important that Congress know what estimated Highway Trust Fund revenues will be prior to the next highway authorization process.

The current tax treatment of gasohol is a disincentive to use ethanol, a clean, renewable fuel source. The bill we are introducing today is good environmental policy, good agricultural policy, good energy policy, and good transportation policy. States should not be penalized for using ethanol. It does not make sense for taxes paid on ethanol-blended fuels to be deposited in the General Fund when we need more than $50 billion per year over the next 20 years just to maintain the current physical condition of our Nation’s highways.

Taxes on ethanol are paid by motorists whose vehicles are causing the same wear and tear on our roads and bridges as non-ethanol-fueled vehicles cause. While we may have policy reasons for taxing ethanol at a lower rate or establishing a market for ethanol-blended fuels, surely we ought to insist that the taxes paid by ethanol users are deposited into the Highway Trust Fund where they can be used to make our highways safer and less congested.

This bill would help ensure that we have reliable alternative sources of energy, while we meet our clean air goals, but not at the expense of States’ highway funding. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

By Mr. DOMENICI:

S. 1309. A bill to amend the Water Desalination Act of 1996 to reauthorize that Act and to authorize the construction of a desalination research and development facility at the Tularosa Basin, New Mexico, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, I rise today to introduce the Water Supply Security Act of 2001. Access to fresh water is an increasingly critical national and international issue. As the world’s population grows and stores of fresh water are depleted, finding additional sources of fresh water is key to ensuring world peace and security.

In the Middle East, a major component of almost every peace agreement is water. President Khatami of Iran said last month that peace in the region will be largely determined by mechanisms to solve the problem of water. Shortly after being elected, Israeli Prime Minister Sharon stated that one of the first things he was going to do was to build two water desalting facilities in Israel to meet that country’s water needs.

Providing fresh water to the people of Africa is a key component in fighting the AIDS epidemic plaguing that continent. AIDS researchers have determined that a fundamental aspect of the mothers with AIDS and HIV who are spreading the virus to their children is because there is not enough clean water to mix infant formula.

Here in the United States, arid states such as New Mexico are facing serious water shortages. City planners in my home town of Albuquerque have speculated that the city will not be able to grow much more because the aquifer located beneath the city is quickly drying up. Nevada, Arizona, Texas, California and Florida are facing similar problems. A study by the Hudson Institute found that by the year 2025, 45 percent of the U.S. population will occur in California, Texas, and Florida. States with water issues will certainly create a demand for technology that will enable them to provide fresh water at a reduced cost.

Although desalting technology has become significantly cheaper in recent years, the cost of desalting brackish and seawater is still substantially more expensive than treatment and delivery of other municipal water supplies. In 1996, Congress passed the Water Desalination Act of 1996. This created a small desalting R & D and demonstration program within the Bureau of Reclamation that was tasked with determining the most technologically efficient and cost-effective means by which usable water can be produced from saline water.

This program has been very successful despite receiving limited funding. However, their authorization is set to expire in 2002. The legislation I introduce today would re-authorize the desalting R & D and demonstration program run by the Bureau of Reclamation for an additional six years so that they can continue their work on futuristic technologies that we anticipate will significantly drive down the cost of converting large volumes of readily available saline and brackish waters. Although desalting technology cost and performance have been significantly improved over the past thirty years, overall cost needs to be reduced by a factor of 5 to 10 to make desalted water affordable. While the currently available technologies may be meeting the needs of certain coastal communities with adequate resources to finance such technology, there is a real need for technology that will enable a much broader range of applications and reduce costs significantly. Such revolutionary desalting technologies would provide significant relief to communities throughout the world, be they rich or poor, coastal or inland.

Our national laboratories have long been known for being at the forefront of science. The laboratories have extensive expertise in virtually all of the key science and technology areas necessary for development desalting technology. Furthermore, the labs are already engaged in research and development in several non-traditional desalination technologies. As such, I believe our national laboratories should play a significant role in the development of this vital technology. Drawing from the technological expertise that the labs can provide should ensure that this endeavor will be a successful one.

The bill that I introduce today would direct a collaborative effort between the Bureau of Reclamation and the Department of Energy in evaluating current technology, advising on how to proceed...
with additional research, authorizing the building of a facility where these advances in technology could be tested, and confirming project and operation costs in a real-world application. This bill would also employ the extensive knowledge in desalination technology that the Bureau of Reclamation has accumulated over the past 30 years by allowing that agency to conduct internal research.

I have no doubt that this legislation would help to push the state of the art forward so that the world has access to this life sustaining resource for years to come.

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

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

S. 1390

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Supply Security Act of 2001.”

SEC. 2. AUTHORIZATION OF RESEARCH AND STUDIES.

Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104-296) is amended by adding at the end the following:

“(c) TULAROSA BASIN DESALINATION FACILITY.—

“(I) IN GENERAL.—

“(A) TECHNOLOGY PROGRESS PLAN.—

“(i) CONSTRUCTION.—Not later than 3 years after the date of enactment of this subsection, Sandia National Laboratories, in collaboration with the Secretary of Energy and in consultation with the Secretary, and using as models the roles of desalination facilities operated by the Federal Government and other research institutions as of the date of enactment of this subsection, shall develop a desalination technology progress plan for the Secretary.

“(ii) AN OVERVIEW OF AVAILABLE SHORT-TERM AND LONG-TERM DESALINATION TECHNOLOGY DEVELOPMENT.—

“(B) RECOMMENDATIONS FOR THE LOCATION, SITING, AND CONFIGURATION OF THE FACILITY UNDER SUBPARAGRAPH (B);

“(C) AN ASSESSMENT OF THE CONTRIBUTIONS THAT THE FACILITY COULD MAKE TO THE FIELD OF DESALINATION; AND

“(D) RECOMMENDATIONS CONCERNING THE MOST EFFECTIVE AND EFFICIENT MANNER OF CARRYING OUT SUBPARAGRAPH (B).

“(II) COST-SHARING REQUIREMENTS.—The cost-sharing requirements described in sections 1694 and 1665 of the Waterway and Groundwater Reclamation and Facilities Act (43 U.S.C. 390h-2; 390h-3) shall not apply to—

“(i) the funding of the technology progress plan described in clause (i);

“(ii) the facility authorized to be constructed under subparagraph (B); or

“(iii) any research carried out by Sandia National Laboratories under this Act.

“(B) TESTING AND EVALUATION FACILITY.—

“(1) CONSTRUCTION.—Not later than 3 years after the date of completion of the technology progress plan under subparagraph (A), the Secretary, in collaboration with the Secretary and in accordance with the memorandum of understanding described in subparagraph (C) and the technology development under subparagraph (A)(i), shall construct a desalination test and evaluation facility at the Tulare Basin, located in Otero County in the State of New Mexico (referred to in this subsection as the ‘facility’).

“(2) REPORT.—Not later than 1 year after the date on which such operations begin, the Secretary of Energy shall submit to Congress a report that describes plans of, and any technological advances made in, the desalination and long-term desalination technology development under subparagraph (B).

“(3) CONTRACTORS.—The Secretary of Energy may enter into such contracts as are necessary (including contracts with other Federal agencies, State agencies, educational institutions, and private entities and organizations) to carry out this subparagraph.

“(C) MEMORANDUM OF UNDERSTANDING.—In carrying out this paragraph, the Secretary of Energy and the Secretary of the Interior shall enter into a memorandum of understanding under which the Secretary of Energy shall seek from the Secretary of the Interior, and the Secretary of the Interior shall provide to the Secretary of Energy, technical assistance and expertise in the development and construction of the facility.

“(D) PURPOSES.—The facility—

“(i) shall be used—

“(I) to carry out research on, and to test, demonstrate, and evaluate, new desalination technologies (including long-term, alternative technologies, that have the potential for significant desalination cost reductions beyond the time frame of the focus of current research);

“(II) to fully evaluate the performance of new technologies, including performance in—

“(a) energy consumption;

“(b) byproduct disposal, and

“(c) operational maintenance costs; and

“(d) to determine the most technologically-efficient, cost-efficient means by which potable water may be produced from saltladen water or other water that is unsuitable for use; and

“(2) should be capable of processing at least 100,000 gallons of water per day.

“(B) COLLABORATION; FACILITY DISCRETION.—

“(A) COLLABORATION.—All research at the facility shall be carried out by the Secretary of Energy, in collaboration with the Secretary of the Interior.

“(B) FACILITY DISCRETION.—Research described in paragraph (2)(A)(i) may be carried out at the facility or at any other laboratory facility determined to be suitable by Sandia National Laboratories.

“(C) PROVISION OF WATER.—

“(1) In general.—Subject to subparagraph (B), all desalinated water produced by the facility shall be distributed to 1 or more communities located in Otero County, New Mexico, at no cost to the communities, as jointly determined by the Secretary of Energy and the Secretary of the Interior.

“(2) Timothy; supplementary aspect.—The water provided under subparagraph (A) shall be—

“(A) provided only after technology testing demonstrates that the water is of a consistent, reliable quality, as determined by Sandia National Laboratories, in coordination with the Secretary of Energy; and

“(B) supplementary to public water systems or wells in the communities.

“(D) TECHNICAL ADVISORY COMMITTEE.—

“(1) In general.—The Secretary of Energy shall jointly establish a technical advisory committee to provide guidance and technical assistance in carrying out this subsection.

“(2) COMPOSITION.—The technical advisory committee shall be composed of—

“(1) representatives from the Department of the Interior and the Department of Energy, to be appointed by the Secretary and the Secretary of Energy, respectively; and

“(2) representatives from academic institutions, the private sector, other Federal agencies, and educational institutions, as the Secretary and the Secretary of Energy, respectively, determine to be appropriate.

“(E) CHAIRPERSONS.—A representative of the Department of the Interior selected by the Secretary and a representative of the Department of Energy selected by the Secretary of Energy shall serve as cochairpersons of the technical advisory committee.

“(F) COST SHARING.—Section 7 shall not apply to this subsection.”.

SEC. 3. CONSULTATION, AUTHORIZATION OF APPROPRIATIONS.

The Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104-296) is amended—

“(1) by striking section 8; and

“(2) by redesignating section 9 as section 8; and

“(3) in section 8 (as redesignated by paragraph (2)), in the first sentence, by striking “Army,” and inserting “Army and the Secretary of Energy”;

“(G) by adding at the end the following:

“SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

“(A) RESEARCH AND STUDIES.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out section 3 and section 4(c)(1)(A) $6,000,000 for each of fiscal years 2002 through 2008.

“(2) RESEARCH PROGRAMS.—Of the amounts made available under paragraph (1)—

“(A) not to exceed $1,000,000 for each fiscal year may be awarded, without any cost-sharing requirement, to institutions of higher education (including United States-Mexico binational research foundations and inter-university research programs established by the 2 countries) for research grants; and

“(B) not less than $1,000,000 of the amount made available for fiscal year 2002 shall be used to carry out section 4(c)(1)(A).

“(B) INTERNAL RESEARCH.—

“(1) AGRICULTURE.—

“(A) IN GENERAL.—Of the amounts made available under paragraph (1) to carry out section 3 for each of fiscal years 2002 through 2008 (other than section 4(c) $6,000,000) there shall be appropriated to the Secretary for research carried out by the Department of Agriculture.

“(B) COST SHARING.—Research described in subparagraph (A) shall be subject to any cost-sharing requirement.

“(C) DESALINATION DEMONSTRATION AND DEVELOPMENT.—There is authorized to be appropriated to the Secretary to carry out section 4 (other than section 4(c)) $30,000,000 for the period of fiscal years 2002 through 2008.

“(D) DESALINATION RESEARCH AND DEVELOPMENT FACILITY.—There is authorized to be appropriated to the Secretary of Energy for 2002 for the Sandia National Laboratories, to carry out section 4(c)(1)(A) $6,000,000 for each of fiscal years 2003 through 2008.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF RESEARCH AND STUDIES.—Section 3 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104-296) is amended—

“(1) in subsection (a)—

“(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively, and indenting appropriately; and

“(B) by striking “In order to” and inserting the following:

“(i) IN GENERAL.—To;

“(ii) by” and inserting the first sentence—

“(1) representatives from the Department of the Interior and the Department of Energy, to be appointed by the Secretary and the Secretary of Energy, respectively; and

“(2) representatives from academic institutions, the private sector, other Federal agencies, and educational institutions, as the Secretary and the Secretary of Energy, respectively, determine to be appropriate.

“(ii) CHAIRPERSONS.—A representative of the Department of the Interior selected by the Secretary and a representative of the Department of Energy selected by the Secretary of Energy shall serve as cochairpersons of the technical advisory committee.

“(ii) COST SHARING.—Section 7 shall not apply to this subsection.”.

S. 7817

CONGRESSIONAL RECORD — SENATE

August 2, 2001  S8717

4-13
S 3310

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Fallon Rail Freight Loading Facility Transfer Act”.

SEC. 2. CONVEYANCE TO THE CITY OF FALLON, NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Interior shall convey to the city of Fallon, Nevada, all right, title, and interest of the United States in and to approximately 6.3 acres of real property in the Newlands Reclamation Project, Nevada, generally known as “380 North Taylor Street, Fallon, Nevada”, and identified for disposition on the map entitled “Fallon Rail Freight Loading Facility”.

(b) MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in—

(1) the office of the Commissioner of Reclamation; and

(2) the office of the Area Manager of the Bureau of Reclamation, Carson City, Nevada.

(c) CONSIDERATION.—Subject to subsection (b), the Secretary shall require that, as consideration for the conveyance under subsection (a), the city of Fallon, Nevada, shall pay to the United States an amount equal to the market value of the real property, as determined by an independent appraiser approved by the Commissioner of Reclamation; and

(d) LIABILITY.—The conveyance under subsection (a) shall not occur until such date as the Commissioner of Reclamation certifies that all liability issues relating to the property have been resolved.

By Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. KENNEDY, Ms. Others).
In 1996, I introduced an amendment to the Illegal Immigration Reform and Immigrant Responsibility Act, ‘IIRIRA,’ that would have authorized the use of expedited removal only at times of immigration emergencies. The bill we introduce today is modeled on that proposal. That amendment passed the Senate with bipartisan support, but was omitted from the bill that was reported by the Senate immigration subcommittee. As a result, expedited removal took effect on April 1, 1997. America’s historic reputation as a beacon for refugees has suffered as a consequence, and it is long past time to restore it.

Expedited removal allows INS inspectors officers summarily to remove aliens who arrive in the United States without travel documents, or even with facially valid travel documents that the officers merely suspect are fraudulent, unless the aliens utter the magic words ‘political asylum’ upon their first meeting with American immigration authorities. This policy is fundamentally unwise and unfair, both in theory and in practice, and its efficacy and fairness has come under increasing criticism.

First, expedited removal ignores the fact that many deserving asylum applicants are forced to travel without passports. For example, victims of repressive governments often find themselves forced to flee their homelands at a moment’s notice, without time or means to acquire proper documentation. Or a government may systematically strip refugees of their documentation, as the Serbian government did in Kosovo in 1999.

Second, expedited removal places an undue burden on refugees, and places too much authority in the hands of low-level INS officers. Refugees typically arrive at our borders ragged and tired from their ordeals, and often with little or no knowledge of English. Our policy forces them to undergo a secondary inspection interview with an INS officer without expertise in asylum and with the power to deport them on the spot. The situation is made worse if the interview is conducted in a language they cannot understand. By law, anyone who indicates a fear of persecution or requests asylum during this interview is to be referred for an interview with an asylum officer. But no safeguards exist to guarantee that this happens, and the secondary inspection interviews generally take place behind closed doors with no witnesses. Indeed, this interview is conducted by INS officers summarily to remove these people, who may not even be provided with a competent interpreter. If they are unlucky, they will receive no interpreter at all, an interpreter with extraordinarily limited knowledge of their language, or even an interpreter who works for the airline owned by the government that they claim is persecuting them. Such a system is a betrayal of our ideals, and we need to reform it.

I was heartened to hear James Ziglar, the President’s choice to head the INS, criticize expedited removal at his confirmation hearing. He said: ‘I definitely think we need to change the process where asylum-seekers come here, to make sure that we know who these people are and what their claims are before we turn around and put them on a plane back to an uncertain future.’ I could not agree more with Mr. Ziglar, and I look forward to working with him on this issue.

I was also inspired by the recent words of Theodore McCarrick, the new Archbishop of Washington, who was formerly an immigration judge and is now archbishop. Archbishop McCarrick described how expedited removal forces potential asylum seekers arriving on our shores ‘to immediately articulate their fear of return’ or be ‘subject to immediate deportation without any recourse to the legal system.’ He wrote: ‘Those who come to our shores and request asylum should be given the opportunity to raise their case before a qualified asylum officer and immigration judge. The Refugee Protection Act to be considered by Congress would reform the U.S. asylum system appropriately and should be enacted.’

The Archbishop described the case of Ditron, an ethnic Albanian from Kosovo who fled the Milojevic government in early 1998 and made it all the way to Newark International Airport with a U.S. passport and dismissing as fake the asylum certificate his relatives had gotten for his two waiting relatives that showed she was born on Long Island. She was held overnight in a room at the airport, handcuffed and with her legs shackled to a chair. During the entire time she was somehow able to make it back to the United States a second time, and his application for asylum is now pending. But such a 50 percent success ratio is simply unacceptable for this Nation.

I became aware of another very disturbing case last summer. A domestic violence victim from the Dominican Republic fled to the United States. The INS believed that she had been a victim and that her life would be endangered if she were returned to her native country. Nonetheless, she was ordered deported under expedited removal because the INS officers who interviewed her took it upon themselves to make a legal determination that victims of domestic violence were ineligible for asylum on that ground. It is bad enough that these officers decided their responsibilities in implementing expedited removal went so far as interfering with U.S. asylum law. Even worse, they got the law wrong. Although a recent Board of Immigration Appeals decision had indicated that domestic violence victims could not gain asylum here, that decision was under review at the time and was later vacated by then-Attorney General Janet Reno. Luckily, a number of Members of Congress intervened in the case and the INS did not deport this woman, who has since been granted asylum. But had her case not been brought to our attention by the Lawyers’ Committee for Human Rights, she would likely have become a silent victim of the expedited removal process.

Another expedited removal horror story came to our attention just last week. Libardo Yepes Holguin fled Colombia last November after his life was threatened by the paramilitary forces involved in the civil war there. When he arrived at Miami International Airport, he told the INS inspectors that he feared being returned to Colombia and that he wanted to seek asylum. He was nonetheless put on a plane back to Colombia, where his life was again threatened. He managed to escape again, and this time entered the United States by crossing a river from Mexico. He was seized by INS officers and has been detained in Texas since May. The INS is currently attempting to remove Mr. Yepes Holguin based on the prior removal order entered against him in Miami last fall, despite his sworn testimony that his repeated requests to apply for asylum were ignored.
her part, Ms. McCaskill has said: “They treated me like an animal—I will have nightmares all my life.”

These stories, just four of the many stories demonstrating the human cost of expedited removal, go a long way toward dispelling the myth of the inhumanity of the new immigration regime that Congress imposed in 1996. But refugees and U.S. citizens are not the only people affected by expedited removal. Human rights groups have also documented numerous cases where people seeking to enter the United States on business, with proper travel documents, have been removed based on the so-called “sixth sense” of a low-level INS officer who suspected that their facially valid documents were fraudulent. In other words, the damage done by expedited removal also threatens the increasingly international American economy, if businessespeople from around the world are treated disrespectfully at our ports of entry, they are likely to take their business elsewhere.

But perhaps the most distressing part of expedited removal is that there is no way for us to know how many deserving refugees have been excluded. Because secondary inspection interviews, if conducted in secret, we typically only learn about mistakes when refugees manage to make it back to the U.S. a second time, like Ditron, or when they are deported to a third country they passed through on their way to the U.S., like Mr. Thievukumar. This uncertainty should lead us to be especially wary of continuing this failed experiment.

As I said, my bill would limit the use of expedited removal to times of immigration emergencies, defined as the arrival or imminent arrival of aliens that would substantially exceed the INS’ ability to control our borders. The bill gives the Attorney General the discretion to declare an emergency migration situation in the declarations of the states. This is good for 90 days. During those 90 days, the INS would be authorized to use expedited removal against people coming from a nation whose crisis has given rise to the emergency migration situation. The Attorney General can extend the declaration for further periods of 90 days, in consultation with the House and Senate Judiciary Committees.

This framework allows the government to take extraordinary steps when a true emergency threatens our ability to patrol our borders. At the same time, it recognizes that expedited removal is an extraordinary step, and is not an appropriate measure under ordinary circumstances.

This bill also provides safeguards that will guarantee refugees some due process rights, even during immigration emergencies. First, aliens would be given the right to have an immigration judge review a removal order, and would have the opportunity both to speak before the immigration judge on their own behalf and to be represented at the hearing at their own expense. To make these rights meaningful, immigration officers would be required to inform aliens of their rights before they are removed or withdraw their application to enter the country. This provision takes away from INS inspectors the unilateral, and prior to 1997, unprecedented, power to remove an alien from the country.

Second, this bill reforms the procedures used to determine whether an applicant who seeks asylum has a credible fear of persecution. If an asylum seeker determines that an applicant does not have a credible fear of persecution, the applicant will now have a right to a prompt review by an immigration judge. The applicant will have the right to appear at that review hearing and to be represented, at the applicant’s expense.

Even those asylum seekers who are found to have a credible fear of persecution and thus escape expedited removal move on to another troubled system. Under current law and practice, asylum seekers are only detained in INS detention facilities or in local jails where the INS rents space. In other words, these men and women who have fled persecution in their native lands are all too often treated like common criminals. We need to do something to solve this problem as well, and the Refugee Protection Act attempts to do so. As a young girl in Zaire, now the Democratic Republic of Congo, Adolphine Mwanza lived in a convent and was studying to be a nun. Her family was known to be opposed to the corruption of the ruling Mobutu regime. Her brother was killed, and she was kidnapped, tortured, and raped. She escaped from the country and fled to the United States in November 1999 on a Zambian passport. She was sent to an INS detention facility in Elizabeth, New Jersey, where she was found to have a credible fear of persecution. But despite the fact that she had volunteered for the attorney at New Jersey University Law School clinic, and a Roman Catholic convent had agreed to house and support her, her request for parole from detention was denied by the INS. She was held in a detention facility for eight months, until she was granted asylum.

This is senseless. We should not detain people whom our own government has found to be likely candidates for asylum as if they were awaiting a criminal trial. More reasonable is for the government to detain someone like Adolphine Mwanza for eight months cannot be justified. And she is not alone. Many asylum seekers are detained for more than a year even though there are family members or non-governmental organizations that are willing to house them and ensure that they appear for their asylum hearing.

The Refugee Protection Act would clarify that the Attorney General has the option to parole asylum seekers, and would add language to existing law to say that it is the policy of the United States not to detain asylum seekers who have been found to have a credible fear of persecution. It also instructs the Attorney General to promulgate regulations to authorize and promote the use of alternatives to the detention of asylum seekers, such as release to private nonprofit voluntary agencies. For those who would still be detained, the bill would guarantee access to legal and religious services. It would also ensure that they are only detained in INS facilities or in contract facilities that contain only immigration detainees asylum seekers would no longer be housed alongside criminals in county jails. In addition, asylum seekers would have the right to have an asylum officer make a determination about whether they should be paroled from detention, and to have an immigration judge review that determination.

These changes will reduce the use of expedited removal against asylum seekers, offer them fundamental due process rights, and improve the conditions of their confinement in those cases where detention is appropriate. These are crucial steps, and we should act on them quickly as possible.

Finally, this bill includes three additional provisions. First, it would eliminate the one-year deadline for asylum applicants that was imposed in 1996. By definition, worthy asylum applicants have arrived in the United States following traumatic experiences abroad. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. Therefore, although I can understand the desire to have asylum seekers submit timely applications, the existing one-year rule does not make sense.

Second, the bill would eliminate the existing annual limit on the number of people who have been granted asylum who can become legal permanent residents. Once we have decided that someone is worthy of asylum, we should not deny them their adjustment to American society. These are people who have chosen the United States because of its ideals and its freedoms, in other words, they are exactly the sort of people we would want to become citizens. We need to eliminate the backlogs that prevent them from starting that process by getting their green cards. This bill will do that.

Third, the bill eliminates the annual limit, the number of refugees who may be admitted or granted asylum because they are subject to persecution for resistance to coercive population control methods. Under current law, only 1000 people can be accepted to the United States in any given year for that reason. Americans are united in their opposition to forced sterilization and abortion, and we should not place an artificial limit on the number of people fleeing from such policies that we will accept. This bill would do that.
50 groups, from the Lawyers’ Committee for Human Rights to the Hebrew Immigrant Aid Society to the Lutheran Immigration and Refugee Service, endorsing it. And even before it has been introduced it has been the subject of favorable editorials or op-eds in the Washington Post, Pittsburgh Post-Gazette, San Francisco Chronicle, San Diego Union-Tribune, Newark, Star-Ledger, Arizona Republic, Baltimore Sun, Minneapolis Star-Tribune, San Antonio Express-News, South Florida Sun-Sentinel, Oakland Tribune, Buffalo News, Bangor, ME., Daily News, and Harrisburg, PA., Patriot-News. Meanwhile, the immigration subcommittee of the Judiciary Committee has already heard testimony this year about the inherent unfairness of our current expedited removal and detention policies from people who went through those systems before being granted asylum. I hope that the momentum this bill already has will lead to its passage by the Senate.

Even in 1996, a year in which immigration was as unpopular in this Capitol as I can remember, this body agreed that expedited removal was inappropriate for a country of our ideals and commitments to human rights. And that agreement cut across party lines, as many of my Republican colleagues voted to implement expedited removal only in times of immigration emergencies. I urge them as well as my fellow Democrats, to support this legislation and to work for its prompt passage.

Mr. BROWNBACK. Madam President, I am pleased to join my distinguished colleagues, Senators LEAHY, COLLINS, and KENNEDY, among others to introduce the Refugee Protection Act of 2001. The Refugee Protection Act will restore fairness to our treatment of refugees who arrive at our shores seeking freedom from persecution and oppression. It will reduce the number of asylum seekers placed in prison-like detention facilities.

On July 10, standing on Ellis Island, President Bush said, “America at its best is a welcoming society.” From our very beginnings almost 400 years ago when the refugee Pilgrims landed on Plymouth Rock seeking religious freedom, our Nation has welcomed refugees. When we give refuge to desperate people fleeing extraordinary persecution, as well as our fellow Nation. Moreover, asylees, by definition, represent the best of American values. Often they are people who have stood alone, at great personal cost, against hostile governments for principles that are fundamental to us such as political and religious liberty, as Americans, with a noble legacy, we must continue to examine our asylum policies with an eagle-eyed vigilance for fairness and justice.

On May 3, I chaired an Immigration Subcommittee hearing on asylum policy. We heard testimony that genuine refugees are, from time to time, mistakenly deported by INS inspectors, treated abusively during airport inspections, and that many asylum seekers are detained in prison-like conditions well beyond the time needed to determine their identity and establish that they have a credible fear of persecution.

First of all, it must be stated that the men and women who serve the INS are dedicated public servants, with a difficult job and in no fashion do I want to indict them. They often work under extraordinary conditions, sometimes with insufficient resources, yet they complete their difficult tasks with fairness and good judgment. However, we must examine various incidents of abuse which have come to our attention regarding the treatment of asylee applicants while their claim is pending. Clearly, these incidents are not official INS policy and most officers would abhor such mistreatment, yet they do occur, nonetheless, and therefore must be addressed. At that Subcommittee asylum seekers presented moving testimony about such mistreatment. For example, Mekabou Fofana, a Liberian teenager, testified that he arrived at JFK airport nine days before his 16th birthday. Despite the fact that he was provided with a Mandingo interpreter. When INS officials twisted his arm and attempted to forcibly fingerprint him, Mekabou fell to the floor, hitting his head and bleeding so profusely that he had to be taken to the hospital. After a year and a half in detention in adult facilities, Mekabou was granted asylum and is now attending high school in New York City.

An Albanian asylum seeker who arrived at O’Hare International Airport in Chicago last year also submitted testimony to the subcommittee. This testifier who wishes to remain anonymous was dragged by his clothing after he explained that he wished to apply for asylum status. He complained that he was not provided with an Albanian interpreter whom he could understand, and officers yelled at him when he refused to sign documents written in English that he could not comprehend.

Faheem Danishmandi, a refugee from Afghanistan, arrived in America at age nineteen, traumatized by the recent killing of his father and separation from his mother. When he told an INS officer that he did not have a passport, he was held in a holding cell for a year and apparently looking for documents then he was chained to a bench for twenty-five hours. After five months in detention, he was granted asylum.

Amin Al-Torfi, a torture survivor from Iraq, fled to America after he and his family were persecuted by Saddam Hussein’s regime because of their political opinions and religious beliefs. At the airport, he told that he would have to wait three days to get an Arabic interpreter. He was shackled by the leg to a row of strip-searched, and led handcuffed with another asylum seeker through the airport front in front of other passengers. After five months of detention, Amin was granted asylum.

A change in our law is desperately needed. I believe in the enforcement of our nation’s immigration laws. I also believe that people who find themselves in higher responsibility to asylum seekers. We have a responsibility to afford them a fair opportunity to present their asylum claims, a responsibility to not unnecessarily detain them for extended periods, and a responsibility not to turn them away to suffer further persecution.

At the May 3 hearing, Leonard Glickman, President of the Hebrew Immigrant Aid Society testified on behalf of his own agency and five other Jewish organizations. Mr. Glickman discussed the tragic history of 900 Jews on the ship, the St. Louis, who, in 1939, were fleeing Nazi persecution. American immigration officials turned them away from the Port of Miami and they were forced to return to Europe where most of them perished. “The Jewish community is greatly concerned about the major changes that were instituted in the U.S. asylum system in 1996, changes that we believe threaten to undermine refugee protection and undermine leadership in the world,” Dr. Glickman testified.

Dr. Don Hammond, a Senior Vice President for World Relief also testified. World Relief is the relief, development, and refugee assistance arm of the National Association of Evangelicals which has called for passage of the Refugee Protection Act. Dr. Hammond stated that there has been a significant increase in religious persecution in a number of countries around the world. A University of California, Irvine study showed that the 101 countries with the highest number of people being turned away from the United States and sent back to their countries of origin. According to Dr. Hammond, of those 101 countries, almost 40 percent are listed on the Open Doors World Watch list of countries that severely restrict religious freedom. “In other words,” Dr. Hammond concluded, “over a third of those who were subjected to expedited removal from the U.S. were from the 35 countries which are known to persecute Christians” and other religious minorities.

I believe that the future of American immigration policy towards asylees is closely interwoven with INSA jurisdiction. The August 2001 confirmation hearing to serve as INS Commissioner, James Ziglar committed to changing INS policy regarding asylum seekers. He said, “I definitely think that we need to change the process where asylee seekers come here, to make sure that we determine what their claims are and whether they’re legitimate before we turn around and put them on a plan back to
an uncertain future." Mr. Ziglar continued that, "I am not one who particularly likes the idea in general of people being detained, unless they have been convicted of a crime, or unless they create some kind of danger to the community. So, my inclination in general has been people unless there is some kind of valid reason, subject to all the due process requirements." Passage of the Refugee Protection Act, combined with fair and humane enforcement by an INS committed to the protection of refugees, will ensure that our Nation once again fully lives up to the dreams of the immigrants who built this great nation as a refuge of freedom and justice.

Mr. KENNEDY. Madam President, I am honored to join Senator LEAHY, Senator BROWNBACK, and other colleagues, in introducing the "Refugee Protection Act of 2001." Our goal is to protect courageous persons who arrive on our shores seeking asylum, provide alternatives to detention for asylum seekers, and improve detention conditions for all persons detained by the INS. The bill also eliminates the arbitrary one-year deadline on filing for asylum, and eliminates the cap on the number of persons granted asylum who can adjust their status to lawful permanent resident.

Every day people are forced to leave their native lands in desperation, fearing for their lives and for the lives of their loved ones. Many of these people arrive in the United States seeking asylum, and we have a responsibility to ensure they are able to request it in a fair and efficient manner.

In 1996, Congress enacted harsh immigration laws that included an expedited removal process granting INS inspection officers broad authority to summarily remove potential asylum seekers if they arrive without proper papers. This process also requires persons to appear before an immigration officer conducting the interview must also state their fear of persecution or their intent to apply for asylum immediately upon arriving in the U.S. But asylum seekers are often traumatized, and are unable to speak to a stranger about their harrowing experience. This is particularly true when they first arrive in the U.S., often after a long and difficult journey.

Many asylum seekers are unable to articulate their fears, especially to government officials. Many of them arrive in English, and adequate translators are often not available to assist them in making their asylum claims.

Legally representation is not permitted at the initial and most critical phase of the expedited removal process, thereby increasing the likelihood that individuals actually eligible for asylum will be turned away and sent back to their native lands to face additional persecution. The law contains no opportunity for judicial appeal of decisions on summary removal. Instead, low-level INS employees have broad, unchecked authority to issue final and binding deportation orders.

Some argue that the expedited removal process is appropriate. Their view is based on the false assumption that the process, in practice, follows the procedures in the regulations. In particular, the regulations require a careful interview and the taking of a systematic sworn statement, a process that should take several hours. The officer conducting the interview must also ask specific questions about whether the person has "any fear or concern" about return to their homeland. And if the person faces charges, the charges must be explained orally, in a language the individual understands. The regulations require that the applicant be able to make a factual sworn statement, a process that requires legal representation. The regulations also require a review by an immigration judge of any removal or deportation order by a high-level supervising officer after an expedited removal order is considered final.

It is clear that these regulations are not adequately followed in practice. Members of my staff have observed first-hand the unfair process. During a visit to JFK International Airport, my staff toured the area where inspection interviews were held and spoke with INS officials. INS officials were conducted side-by-side in a large, open room, affording no privacy to persons who had to share very personal and painful information with government officials.

My staff met with an inspector, who was informed that he would be meeting with congressional staff. The inspector said that anyone who wants to apply for asylum would tell him about that immediately, and that the only people he referred to asylum officers for interviews. He made this statement in spite of the fact that many asylum seekers do not ask for asylum. Our staff members, including the staff from other members' offices, were appalled by these remarks and behavior.

When a supervisor was asked whether the inspectors received training in asylum and interviewing techniques, the supervisor dismissed training as "warm fuzzy stuff," even though many asylum seekers have fled persecution by people in uniforms and are reluctant to speak to uniformed INS officers.

Many immigration groups representing asylum seekers have shared similarly shocking stories. The expedited removal process has caused great hardships for many vulnerable individuals.

Recently, the Immigration Subcommittee held a hearing on asylum policy. At the hearing, a young man from the Democratic Republic of Congo recounted the circumstances that led to his escape. He described being severely beaten and tortured by security forces, and then witnessing his father's death at the hands of these forces. His mother and sisters fled the family home and he has not seen them since.

Upon his arrival in the U.S., he was placed in chains and taken to a detention facility. Neither an interpreter nor a lawyer was present to assist him. Yet, the INS officer decided he did not have a credible fear of persecution and ordered his deportation. An immigration judge reviewed the case, but again the young man did not have an interpreter or lawyer to help him. When he was taken to the airport for deporta-

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offer much-needed protection to persons who have fled their home countries out of fear and terror.

Immigration law also currently places a cap of 10,000 on the number of persons granted asylum whose status can be adjusted to lawful permanent resident each fiscal year, regardless of the number of persons granted asylum in that year. Because the number of persons granted asylum each year exceeds 10,000, the cap has created a large backlog. The INS estimates that a backlog of 300,000 persons is pending adjustment. This delay causes significant hardship to deserving individuals and their families. Our bill will eliminate the arbitrary cap of 10,000 and permit eligible persons to adjust their status without waiting up to six years, as may occur under current law.

Clearly, we need to improve the treatment of those who arrive on our shores seeking asylum and awaiting adjudication of their claims and adjustment of status. We propose to accomplish this goal, but the guidelines are not binding. Our proposal would codify the most important guidelines to ensure that all persons in detention are safe and treated with dignity. The bill requires that persons in detention have access to legal services, visits by persons who are able to lend assistance in the preparation of their cases, and access to legal resources, telephones and religious services. These rights would be guaranteed by the legislation as well.

Our bill also authorizes the establishment of group legal orientation programs, to identify persons with meritorious claims for relief and refer them to counsel at no cost to the government. These programs save the government money by improving the efficiency of the judicial process and by reducing the need for prolonged detention. They educate persons about their rights and the likelihood of success. The bill also creates a national center to provide training for nonprofit agencies that offer such programs, to consult with nonprofit groups on program development and substantive legal issues, and to develop standards for such programs.

Finally, our proposal deals with two other important concerns. In 1996, Congress enacted a law requiring, for the first time, that persons seeking asylum must apply within one year of their arrival in the U.S. Since the enactment of this deadline, more than 10,000 asylum seekers have had their claims rejected by the INS. Many of these individuals did not file their claims, because they were unfamiliar with our legal system and did not know they were required to file a timely application.

Asylum seekers should be able to apply for protection, regardless of when they file their claims. Our bill will eliminate the one-year deadline, thereby preserving the ability of persons seeking refuge to be granted safe haven without regard to the timing of their application. This provision will

By Mr. KENNEDY (for himself, Mr. DODD, and Mr. WELLSTONE):

S. 1312. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to provide for a H-2A Reform and Agricultural Worker Adjustment Act of 2001.

The Nation needs and deserves an agricultural policy that protects farm workers, provides hard-working foreign-born workers with the opportunity to become legal permanent residents, and provides the growers of fruits, vegetables and other commodities with an adequate and legal labor supply. Our bill works toward achieving this goal. It establishes a legalization program for foreign-born farm workers who establish eligibility for protections for all farm workers, and improves wages and working conditions.

We cannot continue to ignore the fact that large numbers of the persons employed in agriculture today are undocumented. Illegal workers are at the mercy of unscrupulous employers, who can get away with paying them very low wages, exposing them to dangerous working conditions, lowering the wages for all farm workers.

Agricultural workers are indispensable members of the workforce. We need an agricultural policy that recognizes their contributions and rewards their work. Under our bill, 500,000 farm workers currently working in the United States, without employment authorization, would be able to adjust their status to legal permanent resident. Persons who work in agriculture for at least 90 days would be able to obtain temporary residency status and would be able to adjust their status to legal permanent residency after working 90 days in three out of the next four years in agriculture. Because agricultural work is seasonal and varies throughout the United States, workers would be permitted to change employers and accept non-agricultural work to supplement their incomes during this period.

These changes will benefit both workers and growers. It will benefit all farm workers by improving wages and working conditions. It will provide a means for foreign-born workers to become permanent residents. By obtaining legal status, workers will no longer be forced to endure substandard wages and working conditions for fear of being deported.

Agriculture is a time-sensitive industry. Growers must have an immediate, reliable and legal workforce at harvest time. Everyone is harmed when crops rot in the field for lack of a labor force. By these changes, growers will have access to dependable, hard-working employees and a workforce that will not be suddenly reduced by INS raids.
Our bill also keeps families together. Immediate family members would be granted legal status at the beginning, and they would be eligible for adjustment to permanent resident status after the worker completes the work requirement. This change will keep hard-working persons and their families together.

Our proposal also offers labor protections to agricultural workers that are long overdue. For example, farm workers could not be fired from agricultural employment except for just cause. Unfortunately, employers could not enact this agreement failed but I hope we will succeed in this Congress. I urge my colleagues to support the H-2A Reform and Agricultural Worker Adjustment Act of 2001. These reforms will secure improved wages and working conditions for all agricultural workers, and protect workers from unfair wages by maintaining wage standards.

The bill ends discrimination against H-2A workers by giving them, for the first time, the same labor protections as U.S. workers. It gives guest workers the same labor rights as U.S. workers, by ending the unfair exclusion of H-2A workers from coverage under the Immigration and Nationality Act. Coverage under that statute currently provides for collective bargaining agreements, and exempts H-2A employers with such agreements from increased H-2A user fees. The bill also prohibits the use of H-2A workers as strikebreakers. These procedures will secure improved wages and working conditions for all agricultural workers, and protect workers from unfair wages by maintaining wage standards.

The bill also protects U.S. workers by removing the incentive to discriminate against them by requiring the employers of H-2A workers to pay the equivalent FICA and FUTA taxes to a new fund. The money from the fund will be used to improve labor management practices to enhance the productivity of the existing labor force and to support comprehensive projects to improve farm labor management, including projects on recruitment, workplace literacy and training, health and safety, and the development of labor-saving technology.

Last year, bipartisan negotiations between the House and Senate resulted in an agreement on migrant agricultural workers that both the agricultural employers and the farm workers supported. This agreement created an earned adjustment program for undocumented farm workers and a reformed H-2A temporary worker program. This compromise represented a positive step toward much needed reform. Unfortunately, efforts to enact this agreement failed but I hope we will succeed in this Congress.

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

S. 1315. A bill to make improvements in title 18, United States Code, and safeguard the integrity of the criminal justice system; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce today, with my good friend from Utah, Senator HATCH, the Judicial Improvement and Integrity Act of 2001. I would like to thank Senator HATCH for his co-sponsorship of this important legislation. This effort builds on other legislation that Senator HATCH and I have worked on together to improve the criminal justice system, including, in this Congress alone, the Drug Abuse Education, Prevention and Treatment Act of 1998, and the Children’s Confinement Conditions Improvement Act, S. 1174.

This bill would improve the criminal code and safeguard the integrity of the judicial system. It would protect witnesses and provide information on criminal activity to law enforcement officials; eliminate a loophole in the criminal contempt statute that allows some defendants to avoid serving prison sentences imposed by the Court; eliminate a loophole in the statute of limitations that makes some defendants immune from further prosecution if they get their plea agreements vacated; grant the government the clear right to appeal the dismissal of a part of a count of an indictment, such as a RICO count; and insulate that courts may impose appropriate terms of supervised release in drug cases; give the District Courts greater flexibility in fashioning appropriate conditions of release for certain elderly prisoners; and clarify the District Court's authority to revoke or modify a term of supervised release when the defendant willfully violates the obligation to pay restitution to the victims of the defendant’s crime.

Section 4 of the bill would amend title 18, United States Code, Section 1512, which prohibits attempts to tamper with witnesses, victims and informants. The statute currently provides that, if the offense involves murder or attempted murder, the maximum sentence is 20 years. If the defendant uses intimidation, physical force, threats or corrupt persuasion, the maximum is 10 years. The bill would increase the statutory maximum sentence for offenses involving the use or attempted use of physical force to 20 years. This change recognizes that the use or attempted use of physical force to tamper with a witness is closely related to attempted murder and that this fact should be reflected in the applicable penalty. For example, if the defendant severely beats the witness, causing serious bodily injury, the offense is arguably as serious as attempted murder, even if the government cannot prove that the defendant intended to kill the witness. The bill would also add a conspiracy provision that would make the maximum penalty for conspiring to tamper with a witness in violation of section 1512 or to retaliate against a witness in violation of section 18 U.S.C. Section 2332a, the same as that for the underlying substantive offense that was the object of the conspiracy. A similar provision was part of the Hatch-Leahy Juvenile Justice legislation, S. 254, which passed the Senate in 1999 but did not emerge from Conference.

The third section of the bill would close a loophole in title 18, United States Code, section 401, which contains penalties for criminal contempt of court. This statute states that a court may punish contempt by a fine “or” imprisonment. Courts have held that this language permits the imposition of either a fine or a term of imprisonment, but not both. This limitation on sentencing is highly unusual, since virtually all criminal statutes permit both a fine and imprisonment. More importantly, it creates the potential for an enormous, unjust windfall for defendants in contempt cases, the defendant can simply pay the fine and then appeal the prison sentence as illegal. Surprisingly, courts have held that, once the fine is paid, the case can no longer be remanded to the district court to have the sentence corrected because the defendant has served the sentence. Thus, the only option is to vacate the fine and set defendant free. See In re Bradley, 318 U.S. 50 (1943). Courts have continued to follow this rule even after the passage of title 18, United States Code, section 3551(b) as part of the Sentencing Reform Act, which generally permits a court to impose a fine in addition to any other sentence. See United States v. Versaglio, 85 F.3d 943, 946–47 (2d Cir. 1996); United States v. Holloway, 991 F.2d 370, 373 (7th Cir. 1993).

It is time for Congress to correct this recurring problem. It is unjust to permit a defendant to go free without any
serving time in prison simply because the judge made an obvious and easily-recognizable mistake in imposing sentence. Moreover, there is no good reason to limit courts to only one sentencing option in criminal contempt cases. Allowing the imposition of both a fine and imprisonment should not result in harsher sentences; if anything, defendants may benefit because courts may choose to impose a fine and a shorter prison sentence instead of a longer prison sentence. The second section of our bill would therefore amend section 401 to allow the court to impose both a fine and imprisonment for criminal contempt. It would make similar changes on a handful of other statutes that contain language similar to section 401: sections 1705, 1916, 2234, and 2235, of title 18 and in section 636 of title 28 of the United States Code.

The fourth section of the bill would add a new provision extending the statute of limitations for counts that are dismissed pursuant to a plea bargain. This would also close a loophole that exists under current law, which is illustrated by United States v. Podde, 105 F.3d 813 (2d Cir. 1995). In that case, a defendant was charged with conspiring to sell a Schedule I controlled substance, but the government later dismissed the charge. The defendant then brought the case within the limitations period by entering into a plea agreement, and the fraud charges were dismissed. Later, however, the defendant was able to get his guilty plea set aside based upon a new Supreme Court decision. The district court then granted the government’s motion to reinstate the original fraud charges, and the defendant went to trial and was convicted. On appeal, however, the court of appeals vacated the defendant’s conviction based upon the statute of limitations. The court ruled that the fraud indictment could not be reinstated because the statute of limitations for the fraud charges had expired before the defendant’s guilty plea was vacated. The Third Circuit reached a similar result on similar facts in United States v. Midgley, 142 F.3d 174, 178–80 (3d Cir. 1998). Under these decisions, the defendants could no longer be prosecuted for any offense, even though the government had brought the case within the limitations period and pursued it diligently. Our provision would prevent such unjust results in the future by allowing the court 60 days to move to reinstate the dismissed counts after the order vacating the defendant’s guilty plea becomes final. This approach is similar to that of 18 U.S.C. § 3238, which gives the government a grace period to obtain a new indictment where counts are dismissed after the statute of limitations has expired.

The fifth section of the bill would amend title 18, United States Code, section 3731, which permits the United States to appeal certain orders of the District Court to the appropriate Court of Appeals. It would clarify that the government is allowed to appeal a dismissed part of a count, such as an overt act in a conspiracy count or a predicate act in a RICO count. This approach is consistent with the Supreme Court’s observation that section 3731 permits “an appeal from an order dismissing only a portion of a count.” Sanabria v. United States, 437 U.S. 54, 69 n.23 (1978). The majority of Federal courts already interpret section 3731 to permit this where the portion of the count that is dismissed could itself constitute a “discrete basis of liability.” See United States v. Moby, 193 F.3d 492, 495, 7th Cir. 1999; United States v. Cocchi, 135 F.3d 874, 5th Cir. 1998. However, one federal circuit has held that section 3731 does not permit any government appeal from the dismissal of only part of a count. See United States v. Louisiana Pacific Corporation, 106 F.3d 345, 35th Cir. 1997. In other cases, appellate review of orders dismissing predicate acts or overt acts has been denied where the dismissed acts could not themselves have been charged in separate counts. See United States v. Terry, 35 F.3d 874, 5th Cir. 1993; United States v. Tom, 787 F.2d 65, 2d Cir. 1986. It is time to resolve these conflicting results definitively.

The reach of section 3731 should clearly be extended to orders dismissing portions of defendants’ dis- charged with or without a plea. The dismissal of an overt act or a predicate act may significantly impair the government’s ability to prove its case. Defendants, of course, may get appellate review of the denial of a motion to dismiss part of a count if they assert that the motion is unavailing. The government should also be able to appeal when such motions are granted, and it has no way of doing so other than through section 3731.

Section six of the bill would resolve a conflict in the circuits as to the permissible length of supervised release in controlled substances cases. Under 18 U.S.C. 3583(b), “[e]xcept as otherwise provided,” the maximum authorized terms of supervised release are 5 years for Class A drug offenses, 3 years for Class C and D felonies, and 1 year for a violation of 21 U.S.C. § 841 or 960. The Fourth Circuit held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. §§ 841 or 960 when a greater term is there provided. United States v. LeMay, 952 F.2d 995, 998 (8th Cir. 1991); United States v. Eng, 14 F.3d 165, 172–3 (2d Cir. 1994); United States v. Garcia, 112 F.3d 395 (9th Cir. 1997). Two courts of appeals, however, have reached the opposite result, holding that an indeterminate supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. 3583(b). United States v. Gracia, 983 F.2d 625, 630 (5th Cir. 1993); United States v. Kelly, 974 F.2d 22, 24–5 (5th Cir. 1992); United States v. Good, 25 F.3d 218 (4th Cir. 1994). Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words “Notwithstanding section 3533(b) of title 18” to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3533.

Section seven of the bill would confer express authority on District Courts under 18 U.S.C. § 3582(c)(1)(A), when exercising the power to reduce a term of imprisonment for extraordinary and compelling reasons, to impose a sentence of probation or supervised release with or without conditions. Such added home confinement as well as those pur- poses for which this statute was designed and will likely facilitate its use in appropriate cases. Under section 3582(c)(1)(A), a court is authorized, on motion of the Bureau of Prisons and consent with the purpose of sentencing in 18 U.S.C. § 3553, to “reduce the term of imprisonment” upon a finding that “extraordinary and compelling reasons” warrant such a reduction. This limited authority has been generally utilized when a defendant sentenced to imprisonment becomes terminally ill or develops a permanently incapacitating illness not present at the time of sentencing. In such circumstances, the sentencing court of a prisoner (e.g., one suffering from a contagious debilitating disease), may make a court reluctant simply to release the prisoner back into society unless another sentencing option such as home confinement or supervised release or probation can be imposed. Presently, however, it is doubtful whether a court can order such a sentence since section 3582(c) speaks of reducing “the term of imprisonment,” not imposing in its stead a lesser type of sentence. Compare Fed. R. Crim. P 35(b), which gives a court the power to “reduce a sentence” to reflect substantial assistance.

Finally, section eight would remedy a statutory ambiguity relating to restitution as a condition of supervised release. Under 18 U.S.C. § 3583(c) and (e), the court is authorized to consider various sentencing factors, including in 18 U.S.C. § 3553 as a basis for imposing restitution as a condition of supervised release or for revoking or modifying the conditions of supervised release. Supervised release is among the purposes stated in section 3553, in paragraph (a)(7), but is not among the factors enumerated in section 3583(c) and (e). However, 18 U.S.C. § 3583(c) also authorizes the court to impose any condition of supervised release including a violation of supervised release under 18 U.S.C. § 3563(b), and making restitution is among those conditions (see section 3564(b)(2)). Thus, it
appears clear that a court has authority to impose a restitution condition upon a term of supervised release. See, e.g., United States v. Payan, 992 F.2d 1387, 1395–96 (5th Cir. 1993). But the absence of a reference to section 3533(a)(7) in the revocation subsection of section 3583 raises a question whether, even under the amended statute, a court could not revoke or modify the defendant’s supervised release for failure to pay restitution unless the defendant had the resources to pay and willfully refused to do so. See Bearden v. Georgia, 461 U.S. 660 (1983); Payan, 992 F.2d at 1396–97.

For all of these reasons, I am pleased to introduce this legislation along with Senator HATCH, and I urge its swift enactment into law.

**By Mr. MURKOWSKI:**

S. 1318. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Madam President, I rise today, to introduce the Conservation and Reinvestment Act of 2001. The bill is identical to a bill I introduced at the start of the 106th Congress. This important legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production. It allocates a portion of those moneys to the coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for state recreation and wildlife conservation programs.

By reinvesting revenues from offshore oil and gas production into a variety of important conservation, recreation and environmental programs, this bill will re dedicate the Federal Government to a partnership with state and local governments to meet the demands of all Americans for outdoor experiences. In addition, it reaffirms the original promise of the Land Water Conservation Fund that a portion of the revenues obtained by the Federal Government from the development of our natural resources would be reinvested into the outdoor recreation and natural resource estate of the Nation.

Like last Congress, this bill is the start of a process. As many of us in this chamber remember, consideration of OCS revenue sharing legislation during the 106th Congress resulted in an outcome none of us could have anticipated, the creation of a 6 year budget moratorium on OCS activities with no dedicated fund for a variety of conservation programs. Enactment of the Conservation Spending Category was one of the great bipartisan achievements of the 106th Congress and was an important step in providing communities and programs that protect our nation’s natural and cultural legacy.

However, coastal impact assistance was not included. While the coastal States that support offshore oil and gas activities received some funding last year, they were specifically excluded from the Conservation Spending Category and no money has been appropriated this Congress.

This bill directs that 27 percent of the revenue generated from oil and natural gas production on the Outer Continental Shelf, or OCS, be returned to coastal States and communities. Offshore oil and gas production generates over $4 billion in revenues annually for the Federal Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs and which bear the burdens of such activity.

This legislation remedies this disparity. States and communities that bear the responsibilities for and costs associated with offshore oil and gas production will finally receive some assistance from the revenues generated by this federal activity. This legislation would share revenues generated by OCS oil and gas activities with counties, parishes and boroughs, the local government entities most directly affected, and State governments.

The bill recognizes that all coastal States, including those States bordering the Great Lakes, have unique needs. It directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts. Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

This is a true investment in the future. This money will be used, day-in and day-out, to improve the quality of life of coastal State residents.

Let me also remind everyone that OCS production only occurs off the coasts of 6 States, yet this bill shares OCS revenues with 34 States. There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting any new OCS production.

The OCS accounts for 24 percent of this Nation’s natural gas production and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs. I firmly believe that the Federal Government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production. These technological advancements will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues. Additional technological advances will further improve resource recovery, and in increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS developments in the Arctic. A number of challenges face new developments in this area, I am confident that we can work through them all. History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal Government from OCS development and investment in conservation and wildlife programs. Thus, Titles II and III of this bill share OCS revenues will ALL States for these purposes. Title II of this bill provides a secure source of funding for the Land and Water Conservation Fund, LWCF. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet recreation needs. Title III of this bill provides funding for State fish and wildlife conservation programs. The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Service. This money could be used for both game and non-game wildlife. With the increase in OCS revenues, the amount of money available for state fish and game programs would nearly double. States will be able to use these moneys to increase fish and wildlife populations and improve fish and wildlife habitat.

This bill is not perfect but it is a step to ensuring not only that Coastal States have money to address the effects of OCS-activities but that all States have needed funding necessary to provide outdoor recreation and conservation resources for all of us to enjoy.

**By Mr. LEAHY (for himself and Mr. HATCH):**

S. 1319. A bill to authorize appropria tions for the Department of Justice for fiscal year 2002, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce the 21st Century Department of Justice Appropriations Authorization Act. I thank Senator HATCH, the Ranking Republican Member of the Judiciary Committee, for his hard work and support of this legislation.

The last time Congress properly authorized spending for the entire Department of Justice, "DOJ" or the
“Department”, was in 1979. Congress extended that authorization in 1980 and 1981. Since then, Congress has not passed nor has the President signed an authorization bill for the Department. In fact, there are a number of years where Congress failed to consider and appropriate Department authorization bill. This 21-year failure to properly reauthorize the Department has forced the appropriations committees in both houses to reauthorize and appropriate money.

We have ceded the authorization power to the appropriators for too long. Our bipartisan legislation is an attempt to reaffirm the authorizing authority and responsibility of the House and Senate Judiciary Committees. I commend Chairman SENSENBRENNER and Ranking Member CONYERS of the House Judiciary Committee for working in a bipartisan manner to pass similar legislation in the House of Representatives.

The “21st Century Department of Justice Appropriations Authorization Act,” is a comprehensive authorization of the Department based on H.R. 2215 as passed by the House of Representatives on July 23, 2001. Our bipartisan legislation contains four titles which authorize appropriations for the Department for fiscal year 2002, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authorities, codify and harmonize existing statutory authorities. The bill establishes certain reporting requirements and other mechanisms, such as DOJ Inspector General authority to investigate allegations of misconduct by employees of the Federal Bureau of Investigation (FBI), intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, the bill creates a separate Violence Against Women Office to combat domestic violence.

Title I authorizes appropriations for the major components of the Department for fiscal year 2002. The authorization mirrors the President’s request regarding the Department except in two areas. First, the bill increased the President’s request for the DOJ Inspector General by $10 million. This is necessary because the Committee is concerned about the severe downsizing of that office and the need for oversight, particularly for FY 2002, at the FBI and the DEA.

Second, the bill authorizes at least $10 million for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft, NET, Act, Public Law 106-170. The American copyright industry is the largest exporter of goods from the United States, employing more than 7 million Americans, and these additional funds are needed to strengthen the resources available to DOJ and the FBI to investigate and prosecute cyberpiracy.

The bill does not contain an authorization for appropriations for several unauthorized grant programs. Senator HATCH and I have decided to review each of these expired programs and authorize them as needed.

In addition, Title I authorizes $9 million in FY 2002 to add an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration’s Project Safe Neighborhoods proposal to reduce school gun violence across the nation. These prosecutors will assist in efforts to obtain weapon convictions and commit violent crimes, as well as the adults who place firearms in the hands of juveniles.

Title II permanently establishes a clear set of authorities that the Department may rely on to use appropriated funds, including establishing permitted uses of appropriated funds by the Attorney General for Fees and Expenses of Witnesses, the FBI, the Immigration and Naturalization Service, the Federal Prison System, and the Detention Trustee. Title II also establishes new reporting requirements which are intended to enhance Congressional oversight of the Department, including new reporting requirements for information about the enforcement of information regarding the Office of Justice Programs, OJP, and the submission of other reports, required by existing law, to the House and Senate Judiciary Committees. Section 206(e) expands an existing reporting requirement regarding copyright infringement cases. Title II also establishes a counterterrorism fund and provides the Attorney General with additional authority to strengthen law enforcement operations.

Title III repeals outdated and open-ended statutes, requires the submission of an annual authorization bill to the House and Senate Judiciary Committees, and provides states with flexible Title III Violence Against Women Office (VAWO) funding to address violence against women. Title III requires the Department to submit to Congress studies on untested rape examination kits, and the allocation of funds, personnel, and workloads for each office of U.S. Attorney and each division of the Department.

Section 305 requires the Attorney General and Director of the FBI to provide the Senate and House Judiciary Committees with a detailed report on the use of DCS 1000, also known as Carnivore, and other similar Internet surveillance systems. Many have raised legitimate privacy concerns with Carnivore. Congress needs to know the facts about Carnivore to find a way to balance the needs of law enforcement investigators with the privacy interests of all Americans.

In addition, Title III provides new oversight and reporting requirements for the FBI and other activities conducted by the Justice Department. Specifically, section 308 codifies the Attorney General’s order of July 11, 2001, which revised Department of Justice’s regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct, which is appointed by Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice.

Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees with a detailed report on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI that would be in charge of investigating independent oversight of programs and operations of the FBI.

Title IV establishes a Violence Against Women Office (VAWO) within the Justice Department. The VAWO is headed by a Director appointed by the President and confirmed by the Senate. In addition, Title IV enumerates duties and responsibilities of the Director, requires the Attorney General to ensure VAWO is adequately staffed and authorizes appropriations for the VAWO.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to have an important role in re-authorizing the Department back before the Senate and House Judiciary Committees. Clearly, regular reauthorization of the Department should be part and parcel of the Committees’ traditional role in overseeing the Department’s activities. Swift passage into law of the “21st Century Department of Justice Appropriations Authorization Act” will be a significant step toward restoring our oversight role.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 1319

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “21st Century Department of Justice Appropriations Authorization Act”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.


Sec. 101. Specific sums authorized to be appropriated.

Sec. 102. Appointment of additional Assistant United States Attorneys; reduction of certain litigation positions.

Sec. 103. Authorization for additional Assistant United States Attorneys for project safe neighborhoods.
TITLE II—PERMANENT/enabling provisions

Sec. 201. Permanent authority.

Sec. 202. Permanent authority relating to operation and maintenance of Land Mobile Radio systems.

Sec. 203. Authorization to use available funds for assistance to departments and agencies.

Sec. 204. Authorization to use available funds for other purposes.

Sec. 205. Authorization to use available funds for education and training.

Sec. 206. Authorization to use available funds for research and development.

Sec. 207. Authorization to use available funds for technology transfer.

Sec. 208. Authorization to use available funds for administration.

Sec. 209. Authorization to use available funds for oversight.


Sec. 211. Authorization to use available funds for public service announcements.

Sec. 212. Authorization to use available funds for other purposes.

Sec. 213. Authorization to use available funds for emergency situations.

Sec. 214. Authorization to use available funds for disaster response.

Sec. 215. Authorization to use available funds for other purposes.

Sec. 216. Authorization to use available funds for public service announcements.

Sec. 217. Authorization to use available funds for technology transfer.

Sec. 218. Authorization to use available funds for administration.

Sec. 219. Authorization to use available funds for oversight.

Sec. 220. Authorization to use available funds for interagency coordination.

Sec. 221. Authorization to use available funds for other purposes.

Sec. 222. Authorization to use available funds for emergency situations.

Sec. 223. Authorization to use available funds for disaster response.

Sec. 224. Authorization to use available funds for other purposes.

Sec. 225. Authorization to use available funds for public service announcements.

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Sec. 246. Authorization to use available funds for oversight.

Sec. 247. Authorization to use available funds for interagency coordination.

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Sec. 249. Authorization to use available funds for emergency situations.

Sec. 250. Authorization to use available funds for disaster response.

Sec. 251. Authorization to use available funds for other purposes.

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Sec. 255. Authorization to use available funds for oversight.

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Sec. 299. Authorization to use available funds for administration.

Sec. 300. Authorization to use available funds for oversight.

Sec. 301. Authorization to use available funds for interagency coordination.

Sec. 302. Authorization to use available funds for other purposes.

Sec. 303. Authorization to use available funds for emergency situations.

Sec. 304. Authorization to use available funds for disaster response.

Sec. 305. Authorization to use available funds for other purposes.

Sec. 306. Authorization to use available funds for public service announcements.

Sec. 307. Authorization to use available funds for technology transfer.

Sec. 308. Authorization to use available funds for administration.

Sec. 309. Authorization to use available funds for oversight.

Sec. 310. Authorization to use available funds for interagency coordination.

Sec. 311. Authorization to use available funds for other purposes.
“(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment; and
“(4) through contracts, grants, or cooperative agreements with non-Federal parties; and
“(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102-395 (106 Stat. 1388), as incorporated by section 815(d) of Public Law 113-132 (110 Stat. 1315).

(B) PERMITTED USES.—

“(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available under the activities described in subsection (a)) may be used, without limitation, for the following:

(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

(C) Services of experts and consultants, including private counsel, as authorized by section 463 of title 31, for the conduct of all its authorized activities.

(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules governing the use of public funds, and expenses of public tours of facilities of the Department of Justice.

(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

(F)Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

(G) In accordance with procedures established and rules issued by the Attorney General—

(i) attendance at meetings and seminars; and

(ii) conferences and training; and

(iii) public moneys under section 3324 of title 31: Provided, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be treated to be public money for purposes of section 3327 of title 31.

(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

(K) Expenses of—

(i) primary and secondary schooling for dependents of personnel stationed outside the continental United States at official quarters; and— excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General determines, as he may prescribe, that such schools are not accessible by public means of transportation.

(L) PURCHASE OF AMMUNITION AND FIRING ARM: FIRING COMPETITIONS.—Funds available to the Attorney General for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

(2) SPECIFIC PERMITTED USES.—

“(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for—

(i) the purchase of ammunition and firing arms; and

(ii) participation in firearms competitions.

(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

(C) construction of protected witness safes.

(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

(A) acquisition of land as sites for enforcement facilities, and construction incident to such sites;

(B) cash advances to aliens for meals and lodging en route;

(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

(A) inmate medical services and inmate legal services, within the Federal prison system;

(B) the purchase and exchange of farm products and livestock;

(C) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction; except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the Detention Trustee, for the Federal Bureau of Investigation, for the United States Marshals Service or other custodians of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department of Justice for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention powers, setting and operations for the Department of Justice.

(8) RELATED PROVISIONS.—

(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney, except that an individual employed to provide services as a foreign attorney in special cases unless such individual is duly licensed and authorized to practice as an attorney under the law of the jurisdiction of the United States, or the District of Columbia.

(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursements to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

“§ 530D. Reimbursement of enforcement of laws

(1) REPORT.—

“(i) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or another officer of the Department—

(A) establishes or implements a formal or informal policy to refrain—
“(C) CONTENTS.—A report required by subsection (a) shall—

(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

(2) include a complete and detailed statement of the relevant issues and background information concerning the policy, incentive, program, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer; or

(3) include any judicial order or other policy, incentive, program, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer.

(b) CONFORMING AMENDMENTS.

(1) In section 504(a) by striking ‘‘sec. 504’’ and inserting ‘‘sec. 504(a)’’;

(2) in section 504(b) by striking ‘‘sec. 504’’ and inserting ‘‘sec. 504(b)’’;

(3) in section 504(c) by striking ‘‘sec. 504’’ and inserting ‘‘sec. 504(c)’’;

(b) CONFORMING AMENDMENTS.—

(1) In the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), the reasons for the policy or determination and the identity of the officer responsible for establishing, implementing or administrating such policy, making such determination, or approving such settlement or compromise, except that—

(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, or of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, if the fact of such omission (and the precise ground or grounds therefor) is clearly set forth in the report;

(B) the report required by this paragraph shall be deemed satisfied—

(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided);

(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided);

and

(2) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), of the results of any enforcement, application, or administration.

(c) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—

(A) In section 503 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(B) In section 504 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(C) In section 505 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(D) In section 506 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(E) In section 507 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(F) In section 508 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(G) In section 509 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’;

(H) In section 510 by striking ‘‘executive agencies’’ and inserting ‘‘executive agencies and military departments’’.

(d) No grants or contracts under subsection (a) or (b) may be used, directly or indirectly, to provide any security enhancements or any equipment to
any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention;" and
(b) by striking "503" by inserting "501(b)".

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 501(b) of title 28, United States Code, is amended by striking "at not more than $12,000.".


(a) Section 522 of title 28, United States Code, is amended by inserting "as applicable" to classify or categorize offenders and victims (in the criminal context, as defined in subsection (c) of section 534 of title 28, United States Code, and no funds available for the underlying expenses of debt collection activities.

(b) Section 534 of title 28, United States Code, is amended by inserting "a jurisdiction of any government, to favor, adopt," by inserting ", law, ratification, policy," after "legislation", every place it appears, by striking "Congress" the 2d place it appears, by inserting "or such official before", through "the proper", by inserting ", measure," before "section", by inserting "by Members of Congress on the request of any Member" and inserting "any such Member or official, at his request," by striking "for legislation" and inserting "for any legislation".

(c) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "covenanted, cooperative agreement," after "contract.

(d) Section 119 of title 1 of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–87) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General determines".

(e) Section 2320(f) of title 18, United States Code, is amended—
(1) by striking "18" each place it appears; and
(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D).respectively;
(3) by inserting ", (i) after "(f)"; and
(4) by adding at the end the following:
"(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:
"(A) The number of infringement cases involving specific types of works, such as sound recordings, business software, video games, books, and other types of works.
"(B) The number of infringement cases involving an online element.
"(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $2,500, from $2,500 to $5,000, from $5,000 to $25,000, and from $25,000 to $100,000, and categories above $100,000.
"(D) The amount of restitution awarded.
"(E) Whether the sentences imposed were secured.

SEC. 206. OVERSIGHT, WASTE, FRAUD, AND ABUSE OF APPROPRIATIONS.

(a) Section 262 of title 28, United States Code, is amended by inserting "a jurisdiction of any government, to favor, adopt, agreed, discovered, or, and by inserting ", or the witness, discoverer, or recipient, as appropriate," after "agency.

(b) Section 2681–1(a) and (b) of title 18, United States Code, is amended by—
(1) by striking "title 18" with the words "in criminal, or", and by replacing "title 18" with "Federal criminal law", and in subsection (b), by replacing ", complaint" with "matter, or complaint with", and, by inserting ", or the witness, discoverer, or recipient, as appropriate," after ", agency.

(b) Section 280 of title 28, United States Code, is amended by inserting "as applicable" to classify or categorize offenders and victims (in the criminal context, as defined in subsection (c) of section 534 of title 28, United States Code, and no funds available for the underlying expenses of debt collection activities.

(b) Section 501(b) of title 28, United States Code, is amended by inserting "as applicable" to classify or categorize offenders and victims (in the criminal context, as defined in subsection (c) of section 534 of title 28, United States Code, and no funds available for the underlying expenses of debt collection activities.

(b) Section 534 of title 28, United States Code, is amended by inserting "a jurisdiction of any government, to favor, adopt," by inserting ", law, ratification, policy," after "legislation", every place it appears, by striking "Congress" the 2d place it appears, by inserting "or such official before", through "the proper", by inserting ", measure," before "section", by inserting "by Members of Congress on the request of any Member" and inserting "any such Member or official, at his request," by striking "for legislation" and inserting "for any legislation".

(b) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "covenanted, cooperative agreement," after "contract.

(d) Section 119 of title 1 of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–87) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General determines".

(e) Section 2320(f) of title 18, United States Code, is amended—
(1) by striking "18" each place it appears; and
(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D).respectively;
(3) by inserting ", (i) after "(f)"; and
(4) by adding at the end the following:
"(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:
"(A) The number of infringement cases involving specific types of works, such as sound recordings, business software, video games, books, and other types of works.
"(B) The number of infringement cases involving an online element.
"(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $2,500, from $2,500 to $5,000, from $5,000 to $25,000, and from $25,000 to $100,000, and categories above $100,000.
"(D) The amount of restitution awarded.
"(E) Whether the sentences imposed were secured.

SEC. 207. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended by inserting "as applicable" to classify or categorize offenders and victims (in the criminal context, as defined in subsection (c) of section 534 of title 28, United States Code, and no funds available for the underlying expenses of debt collection activities.

(b) Section 262 of title 28, United States Code, is amended by inserting "a jurisdiction of any government, to favor, adopt," by inserting ", law, ratification, policy," after "legislation", every place it appears, by striking "Congress" the 2d place it appears, by inserting "or such official before", through "the proper", by inserting ", measure," before "section", by inserting "by Members of Congress on the request of any Member" and inserting "any such Member or official, at his request," by striking "for legislation" and inserting "for any legislation".

(b) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "covenanted, cooperative agreement," after "contract.

(d) Section 119 of title 1 of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–87) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General determines".

(e) Section 2320(f) of title 18, United States Code, is amended—
(1) by striking "18" each place it appears; and
(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D).respectively;
(3) by inserting ", (i) after "(f)"; and
(4) by adding at the end the following:
"(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:
"(A) The number of infringement cases involving specific types of works, such as sound recordings, business software, video games, books, and other types of works.
"(B) The number of infringement cases involving an online element.
"(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $2,500, from $2,500 to $5,000, from $5,000 to $25,000, and from $25,000 to $100,000, and categories above $100,000.
"(D) The amount of restitution awarded.
"(E) Whether the sentences imposed were secured.

SEC. 208. COUNTERTERRORISM FUND GRANTS TO STATES.

There is hereby established in the Treasury of the United States a separate fund to be known as the “Counterterrorism Fund”.

(1) to reimburse any Department of Justice component for any costs incurred in connection with—
(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;
(B) providing support to counter, investigate, or prosecute domestic or international terrorism investigations, including funding for personnel, equipment, training, and travel costs, and legislative limitaiton, paying rewards in connection with these activities; and
(C) conducting terrorism threat assessments of Federal agencies and their facilities; and
(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) No EFFECT ON PRIOR APPROPRIATIONS.—The amendment made by subsection (a) shall not affect the amount or availability of any appropriation made before the date of enactment of this Act.

SEC. 209. STRENGTHENING LAW ENFORCEMENT IN TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) EXTENDED ASSIGNMENT INCENTIVE.—Chapter 57 of title 5, United States Code, is amended—
(1) in subchapter IV, by inserting at the end of the section—
"§5757. Extended assignment incentive
(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—
(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;
(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and
(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.
(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—
(1) the annual rate of basic pay of the employee at the beginning of the service period;
(2) the annual rate of basic pay of the employee at the beginning of the service period; or
(3) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or
(4) $15,000 per year in the service period.
(c) (1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency that specifies the period of service and other terms and conditions under which the extended assignment incentive is payable.
(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.
(d) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to completion of the agreed-upon service period, and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments that exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed in a foreign country, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.
(3) An agency may not put an extended assignment incentive into effect during a period of reorganization if the agency is no longer using a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.
(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.
(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's retention or receipt of incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's authority to administratively determine compensation for a class of its employees; and
(2) by inserting at the end of section 3757, "3757. Extended assignment incentive.
(b) CONFORMING AMENDMENT.—Section 3757a(a)(2) of title 5, United States Code, is amended by striking "§5757" and inserting "3757, or §5757".
(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the last day of the pay period beginning on or after 6 months after the date of enactment of this Act.
(d) REPORT.—Not later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to increase the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

SEC. 310. ADDITIONAL AUTHORITIES OF THE ATTORNEY GENERAL.

(a) FBI DANGER PAY.—Section 151 of the Foreign Intelligence Surveillance Act, fiscal years 1990 and 1991 (5 U.S.C. 929 note) is amended by inserting "or Federal Bureau of Investigation" after "Drug Enforcement Administration".
(b) FEDERAL BUREAUX FOR FISCAL YEAR 2002.—For fiscal year 2002 and thereafter, whenever the Federal Bureau of Investigation participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country or its sharing partner project may be credited to appropriate current appropriations accounts of the Federal Bureau of Investigation. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.
(c) RAILROAD POLICE TRAINING FEES.—For fiscal year 2002 and thereafter, the Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account "Federal Bureau of Investigation, Salaries and Expenses", to be available until expended for salaries and expenses incurred in providing such training to railroad police officers.
(d) WARRANT WORK.—In instances where the Attorney General determines that law enforcement, security, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty or for Federal agencies to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment for such work to any appropriation charged thereon.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALING PROVISIONS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4853.
(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (1).

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—
(1) in section 4041 by striking "at a salary of $10,000 a year"; and
(2) in section 4043—
(A) in subsection (a)—
(i) by replacing "the support of United States prisoners" with "Federal prisoner detention";
(ii) in paragraph (2) by adding "and" after "hire"; and
(B) in subsection (b) by replacing "entities; and" with "entities; and"
(iv) in paragraph (4) by inserting "The Attorney General, in support of Federal prisoners detained in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for", before "entering";
and
(B) by redesignating
(i) subsections (b) and (c) as subsections (c) and (d); and
(ii) paragraph (a)(d) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(d) as paragraphs (1), (2), and (3) of such subsection (b); and
(iii) in subsection (a)—
(A) by striking "or makes" and inserting "makes";
and
(B) by striking "supplements the salary of, and" inserting "supplements, the salary of".


When the President submits to the Congress the budget of the United States Government for fiscal year 2003, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal year 2003 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

The Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORT ON WCS 1000 ("CARNIVORE").

Not later than 30 days after the end of fiscal years 2001 and 2002, the Attorney General and the Director of the Federal Bureau of Investigation shall provide to the Congress—
on the Judiciary of the House of Representatives and the Senate a report detailing—

(1) the number of orders or extensions applied for to authorize the use of DCS 1000 (or any similar system or device);
(2) the fact that the order or extension was granted as applied for, modified, or was denied;
(3) the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device);
(4) the court that authorized each use of DCS 1000 (or any similar system or device);
(5) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;
(6) Maintaining the order or application, or extension of an order;
(7) the Department of Justice official or officials who approved each use of DCS 1000 (or any similar system or device);
(8) the criteria used by the Department of Justice officials to review requests to use DCS 1000 (or any similar system or device); and

(9) any information intercepted that was not authorized by the court to be intercepted.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

(1) whether there should be established, within the Department, a separate Office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation; and

(2) whether there should be established, within the Office of the Inspector General for the Federal Bureau of Investigation, an Office of Deputy Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the “Violence Against Women Act of 2000.”

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796g et seq.) is amended—

(1) in section 2002(d)(3)—

(A) by striking “section 2005” and inserting “section 2009”;
(2) by striking “section 2006” and inserting “section 2010”;
(3) by redesignating sections 2002 through 2006 as sections 2006 through 2010, respectively; and
(4) by inserting after section 2001 the following:

“SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

(a) OFFICE.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this title referred to as the ‘Office’).

(b) DIRECTOR.—The Office shall be headed by a Director (in this title referred to as the ‘Director’), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General, and shall make reports to the Deputy Attorney General as the Director deems necessary to fulfill the functions of the Director.

(c) The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Attorney General, and the Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office, in or act in any capacity for, any organization or agency with which the Office makes any contract or other arrangement under this title.

SEC. 2003. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

SEC. 2004. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

“...
Section 1. Short title and table of contents

Section 1 provides that the short title of the Act shall be the “21st Century Department of Justice Appropriations Authorization Act.” It also contains a table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Section 101. Specific sums authorized to be appropriated as follows:

General Administration—$35,631,000

For the investigation and prosecution of intellectual property crime, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 108-192). Antitrust Division—$140,973,000

For the conduct of the legal activities of the Department, including the Office of the Inspector General, Tax Division, Criminal Division, Civil Division, United States Attorneys and reduction of legacy systems.

United States Attorneys—$1,346,269,000

For the salaries and expenses of the 94 United States Attorneys for Project Safe Neighborhoods.

Federal Bureau of Investigation—$3,507,109,000

For the detection, investigation, and prosecution of crimes against the United States and in foreign intelligence activities, and in testing and preventing acts of terrorism against the United States.

United States Marshals Service—$626,349,000

To protect the Federal courts and its personnel and to continue operation of the federal judicial system, of which no more than $6,621,000 may be used for construction.

Federal Prison System—$4,662,710,000

For the administration, operation, and maintenance of federal penal and correctional institutions.

Federal Prison Detention—$724,882,000

For the support of United States prisoners in non-federal institutions, as authorized by 18 U.S.C. §4013(a). Drug Enforcement Agency—$1,480,929,000

To enforce the controlled substance laws and regulations of the United States, and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service—$3,316,411,000

For the administration and enforcement of the laws relating to immigration, naturalization, and adjusting the status of aliens, of which no more than $2,737,341,000 for salaries and expenses and border affairs, no more than $608,000 for the naturalization of citizens and benefits, and no more than $128,410,000 for construction.

Fees and Expenses of Witnesses—$156,136,000

For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for government employees who have been subpoenaed or otherwise summoned for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement—$356,106,000

For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission—$1,130,000

To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation.

Community Relations Service (CRS)—$9,269,000

To assist communities in preventing and controlling racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance.

Assets Forfeiture Fund—$22,949,000

To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventoring, maintaining, protecting, advertising, forfeiting, and disposing of property.

United States Parole Commission—$10,982,000

For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction in the case of prisoners who are released on parole or as if on parole.

Federal Detention Trustee—$1,718,000

For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-federal institutions or otherwise in the custody of the United States Marshals Service; and the detention of aliens in the Immigration and Naturalization Service.

Joint Automated Booking System—$13,900,000

For the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data.

Narrowband Communications—$104,606,000

For the costs of conversion to narrowband communications, including the cost for operation, and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation—$1,498,000

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act.

Fees for Detention Services—$8,498,000

For the reimbursement of: 1. the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of a nuclear or international terrorist incident and 2. the costs of providing support to counter, investigate or prosecute domestic or international terrorist activities, including payment of rewards in connection with these activities.

Office of Justice Programs—$116,369,000

For necessary administrative expenses of the Office of Justice Programs.

Section 102. Appointment of additional Assistant United States Attorneys

This section authorizes the Attorney General to transfer 200 additional Assistant U.S. Attorneys from among the six litigating divisions at the Justice Department’s headquarters at Main Justice, D.C. to the various U.S. Attorneys offices around the country. Vacant positions resulting from transfers pursuant to this section will be terminated. This section also raises the productivity of Washington-based lawyers, who litigate criminal and civil cases across the nation for the Justice Department, by moving more litigating attorneys for the government are most effective in the Federal judicial district where their cases are pending. The transfer of attorneys is discretionary to prevent ongoing litigation from being adversely affected.

Section 103. Authorization of additional Assistant United States Attorneys for Project Safe Neighborhoods

This section authorizes an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement the Attorney General’s direction to establish the Operational Capability of an Interagency Community Relations Service (CRS) in the District of Columbia to assist communities in preventing and controlling racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance.

Section 201. Permanent authority for detention

Section 201 amends Chapter 31 of Title 28, United States Code, by creating a new section, “330C”. This section details permitted uses of available funds by the Attorney General to carry out the activities of the Justice Department. General permitted uses of available funds include: payment for motor vehicles, boats, and aircraft; payment for service of experts and consultants; and payment for private counsel; payment for official reception and representation expenses and public tours; payment of unforeseen expenses of a contingency nature; payment of miscellaneous and emergency expenses; payment of certain travel and attendance expenses; payment of contracts for services of interpreters and translators; and payment for uniforms.

Specific permitted uses of available funds include: payment for motor vehicles, boats, and aircraft; payment for service of experts and consultants; and payment for private counsel; payment for official reception and representation expenses and public tours; payment of unforeseen expenses of a contingency nature; payment of miscellaneous and emergency expenses; payment of certain travel and attendance expenses; payment of contracts for services of interpreters and translators; and payment for uniforms.
Section 204. Miscellaneous uses of funds; technical amendments

Section 204 provides technical amendments to the Bureau of Justice Assistance grant program, the Victim of Crime Act, the Crime Control and Safe Streets Act of 1968. It also makes minor amendments to the amount available to compensate attorneys specially retained by the Attorney General, or the Detention Trustee for the transfer property of marginal value.

Section 205. Technical amendment; authority to transfer property of marginal value.

Section 205 makes technical amendments to section 524(c) of title 28, United States Codes, authorizing the Attorney General's authority to transfer property of marginal value, and requires the use of standard criteria for purposes of categorizing offenders, victims, and those upsets in any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose. This section also makes several clerical and technical amendments to title 28, United States Code. In addition, this section adds authority to ensure that no inference is created that the government is liable for interest on certain reitroactive payments made by the Department of Justice and to improve financial systems and debt-collection activities.

Section 206. Oversight; waste, fraud, and abuse of appropriated funds.

Section 206 amends Section 529 of Title 28, United States Code, to require the Attorney General to submit an annual report to the House and Senate Committees on the Judiciary, the Senate Majority and Minority Leaders of the Senate, the Speaker of the House, and the Majority and Minority Leaders of the House and Senate Committees on the Judiciary, regarding: the amount of money available to compensate attorneys specially retained by the Attorney General, for the representation bonus and other extended assignment requirements on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments.

Section 207. Existing federal criminal laws by Attorney General

Section 207 provides clarifying amendments to title 28, United States Code, relating to the enforcement of federal criminal law.

Section 208. Counterterrorism fund

Section 208 establishes a counterterrorism fund in the Treasury of the United States, without effectuating any changes in the fiscal year preceding fiscal year by or on behalf of the Office of Justice Programs and a report on every grant, cooperative agreement, or program made by the Attorney General, or on behalf of the Office of Justice Programs that was terminated or that otherwise ended in the immediately preceding fiscal year. In addition, Section 206 amends the Anti-Lobbying Act to expand its coverage to all legislative activity at the federal and state level and to require reporting on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments.

Section 209. Strengthening law enforcement in foreign countries.

Section 209 allows the payment of a retention bonus and other extended assignment incentives to retain law enforcement personnel in U.S. Territories, Commonwealths and Possessions. This new authority is needed to continue the fight against drug and gang-related crimes.

Section 210. Additional authorities of the Attorney General.

Section 210 provides special ‘danger pay’ allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. The section also permits the FBI to enter into cooperative projects with foreign governments, law enforcement or intelligence operations and to charge a fee for training of railroad police officers. In addition, the section authorizes the Attorney General to request the amount of the warranty work performed at Department of Justice facilities. The Administration requested these provisions in its budget submission for FY 2003.

Section 211. Miscellaneous.

Section 211 repeals open-ended authorizations of appropriations for the National Institute of Corrections and the United States Marshals Service.

Section 212. Technical amendments to title 18 of the United States Code

Section 212 makes several minor clarifying amendments to title 18, United States Code. Section 212(3) moves a comma that became necessary from the focus of a statement to the end of the question in Crandon v. United States.

Section 213. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal year 2003.

Section 213 requires the President to submit a Department of Justice authorization bill for FY 2003 to the House and Senate Committees on the Judiciary when the President submits his FY 2003 budget. The authorization bill should contain any recommended additions, changes or modifications to existing authorities that may be necessary to carry out the functions of the Department. Any such addition, change, or modification should be accompanied by a description of the change and the justification for the change.

Section 214. Study of untested rape examination kits.

Section 214 requires the Attorney General to conduct a study and assessment of untested rape examination kits that currently are in use, and to make recommendations to all law enforcement jurisdictions. The Attorney General is required to submit a report of this study and assessment to the Congress.


Section 215 requires the Attorney General and Director of the Federal Bureau of Investigation to submit a timely report to the House and Senate Committees on the Judiciary detailing: 1. the kind of order applied for and extensions applied for to authorize the use of DCS 1000 (or any similar system or device); 2. the fact that the order or extension was granted as modified, or was denied; 3. the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device); 4. the court that authorized each use of DCS 1000 (or any similar system or device); 5. the period of interceptions authorized by the order, and the number and duration of any extensions of the order or application, or extension of an order; 7. the Department of Justice officials or officials who approved each use of the order or application for any similar system or device; 8. the criteria used by the Department of Justice officials to review requests to use DCS
Section 401. Short title.

Section 306 requires the Attorney General to report to Congress within 180 days of enactment of this bill on the allocation of funds, attorneys, and other personnel, per- tinent workloads, and number of cases opened and closed for each office of U.S. At- torney and each division of the Department of Justice.

Section 307. Use of Truth-In-Sentencing and Violent Offender Incarceration Grants.

Section 307 provides states with flexibility to use existing Truth-In-Sentencing and Vio- lent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities.

Section 308. Authority of the Department of Justice Inspector General.

Section 308 codifies the Attorney General's order of July 11, 2001, which revised Depart- ment of Justice regulations concerning the Inspector General. The section ensures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by De- partment of Justice personnel, including em- ployees of the Federal Bureau of Investiga- tion and the Drug Enforcement Administra- tion, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice. Consistent with the Attorney General’s order, the one exception is that allega- tions of misconduct that relate to the exer- cise of an attorney’s authority to investi- gate, litigate, or provide legal advice should be referred to the Office of Profes- sional Responsibility of the Department of Justice.


Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Ju- diciary within 90 days after enactment of this Act on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector Gen- eral for the FBI that shall be responsible for supervising independent oversight of pro- grams and operations of the FBI.

Title IV — Violence Against Women

Section 401. Short title.

Section 401 establishes the “Violence Against Women Office Act” as the short title.

Section 402. Establishment of Violence Against Women Office.

Section 402 establishes a Violence Against Women Office, VAWO, within the Depart- ment of Justice, headed by a presidentially appointed and Senate confirmed Director. The Director is vested with authority for all grants, cooperative agreements, and con- tracts awarded by the VAWO. In addition, the Director is prohibited from other em- ployment during service as Director or affili- ation with organizations the may create a conflict of interest.

This section enumerates the following du- ties of the Director: 1. serving as special counsel to the Attorney General on violence against women, including a liaison with the judicial branches of Federal and State Governments; 2. providing information to the President, the Congress, the judiciary, State and local government, and to the gen- eral public; 3. serving as a representative of the Justice Department on domestic task forces; 4. serving as a representative of the Justice Department under the Violence Against Women Act of 1994 and other matters relating to vio- lence against women, including developing policy, the development and management of grant and other programs, and the award and termination of grants; 6. providing technical assistance, coordination, support to other elements of the Department, other Federal, State, and Tribal agencies, and to grantees; exercising other powers delegated by the Attorney General or Assistant Attor- ney General; and establishing rules, regu- lations, guidelines and necessary procedures to carry out the functions of VAWO.

This section requires the Attorney General to ensure that VAWO receives adequate staff to support the Director in carrying out the responsibilities of the VAWO Act.

This section authorizes such sums as are necessary to carry out the VAWO Act.

Mr. HATCH. Madam President, I rise in support of the 21st Century Depart- ment of Justice Appropriations Au- thorization Act, which Senator LEAHY and I have introduced today. Senator LEAHY and I have been working for several years to pass a Department of Justice reauthorization bill, and I can say that it is once again a major priority of the Judiciary Committee this session. I want to emphasize to my colleagues how important it is that the Senate consider and pass this legislation to re- authorize the Department of Justice this year.

It is simply inexcusable that over two decades have lapsed since Congress has passed a general authorization bill for the Department of Justice. It is in my view a matter of significant concern when any major cabinet depart- ment goes for such a long period of time without congressional reauthor- ization. The bill that is under consideration today encourages administrative drift and permits important policy decisions to be made ad hoc through the adoption of appropriations bills or special purpose legislation. Moreover, our failure to re- authorize has also placed the undue burden on the appropriations commit- tees in both houses to act as both au- thorizers and appropriators. This legis- lation will end the piecemeal funding of important programs and responsibil- ities which impact the day-to-day lives of all Americans.

The Department of Justice’s main duty is to provide justice to all Ameri- cans, certainly of central importance to our national life. It has the primary responsibility for the enforcement of our Nation’s laws. Through its divi- sions and agencies including the FBI and DEA, it investigates and prosecutes violations of Federal criminal laws, protects the civil rights of our citizens, enforces the antitrust laws, protects the environment and the Computer Crime and Intellectual Property Section within the Department. With the number and severity of computer threats increasing, the Department’s budget must be increased to meet the needs of our citizens.

In contrast, the Department of Justice’s budget now exceeds $24 billion and it employs more than 125,000 people. Such a vast department requires Congress’ full attention. Yet, it is fair to say that Congress has been less than vigilant in its job of overseeing the De- partment of Justice. Let me be clear that I am not advocating that we micro-manage the Department of Justice. I have full confidence in Attorney General Ashcroft and the thousands of employees who competently manage the Department daily. However, we cannot continue to neglect our respon- sibility to oversee closely this Depart- ment that so profoundly affects the lives of all Americans.

The authorizations contained in the 1979 reauthorization act, the last Justice Department authorization bill that Congress passed, are hopelessly out of date and have been amended, and two bills are considered every year since. The lack of a compre- hensive authorization has need- lessly increased the administrative burden on the Department of Justice by causing them to perform operations inefficiently or to delay implementa- tion of programs until specific author- ization is legislated. This bill authorizes and consolidates a host of appro- priations authorities and makes them permanent. These authorities are es- sential to the administration of the De- partment and accomplishment of its mission.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major compo- nents of the Department for FY 2002. Among these authorizations are fund- ing for the Drug Enforcement Adminis- tration to combat the trafficking of il- legal drugs, the Immigration and Na- tionalization Service to enforce our country’s immigration laws, and the Federal Bureau of Investigation to pro- tect against cybercrime and terrorism. The authorization levels reflect the President’s budget in all but two areas. First, the bill increases the President’s request for the Department’s Inspector General by $10 million. This increase is warranted because the IG’s office has been cut severely over the last several years and the need for effective over- sight, particularly over the FBI, is es- sential. Second, the bill increases by $3.5 billion the Department of Justice’s budget for FY 2002.
crimes growing dramatically each year, this increase will enhance the Department's ability to investigate and prosecute computer-related crimes, such as software counterfeit crimes and denial of service attacks.

Additionally, this bill establishes the Attorney General's Office to oversee the programs and operations of the FBI and to investigate allegations of wrongdoing within the Bureau. The bill also directs the Attorney General to submit a report and recommendation to Congress to determine whether to establish an Office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI, which would be responsible for supervising independent oversight of the programs and operations of the FBI. While I am confident that the FBI's new Director, Robert Mueller, has the knowledge and ability to correct some of the bureaucratic and managerial problems the FBI has experienced, I agree with the Attorney General that FBI should be subject to the oversight of the IG. I look forward to the Attorney General's report, and I am sure it will provide guidance as to whether additional measures are warranted to ensure the effective operation of the Bureau.

Finally, the bill establishes a Violence Against Women Office, VAWO, within the Justice Department, which will be headed by a presidentially appointed and Senate confirmed Director. The bill enumerates the duties and responsibilities of the Director and requires the Attorney General to ensure that the Office is staffed adequately. The Director, in part, will serve as a special counsel to the Attorney General on issues related to violence against women, provide information to the President, the Congress, State and local governments, and the general public, and maintain a liaison with the judicial, federal and state governments. Establishing this office bespeaks our commitment to reducing violent crimes against women.

This bill is a step in the right direction. It will undoubtedly revive Congress's role and interest in overseeing the Department of Justice. The Judiciary Committee has redoubled its efforts and plans to vote the Department of Justice reauthorization bill out of Committee soon after we return from the August recess. It is a highly important and overdue piece of legislation that deserves our immediate attention, and I am confident that it will receive the support of my colleagues and be enacted this year.

By Mr. KOHL (for himself and Mr. CORZINE):

S. 1320. a bill to change the date for congressional and presidential elections from the first Tuesday in November to a Saturday in the month of November. This legislation is virtually identical to legislation that I first proposed in 1997 in the 105th Congress and the 106th Congress.

Earlier this week, the National Commission on Federal Election Reform presented its recommendations to the President on how to improve the administration of federal elections in our country. Their recommendations, coming on the heels of the contested Presidential election of last year, lay out some strong ideas for how we can strengthen our election system at a time when Congress may very well take action in this area. As a cosponsor of election reform legislation, I am hopeful that we can pass real election reform this year.

One of the recommendations the National Commission made to the President was to move Election Day to the first weekend in November to provide a national holiday, in particular Veterans Day. As might have been expected, this proposal has not been well received by veterans groups who rightly consider this a diminishment of their ability to honor that historically has been designated to honor that service. While I agree with the Commission's goal of moving election day to a non-working day, I believe we can achieve all the benefits of holiday voting without offending our veterans by moving our elections to the weekend.

My proposal for weekend voting would call for the polls to be open the same hours across the continental United States, addressing the challenge of keeping results on one side of the country, or even a State, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for polling stations and people willing to staff the polls. It addresses the critical shortage of poll workers. Weekend voting also has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls without creating a national holiday.

Under this bill, polls would be open nationwide for a uniform period of time from Saturday, 6 p.m. eastern time to Sunday, 6 p.m. eastern time. Polls in other time zones would also open and close at the same time. This would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open from Saturday to Sunday, they also would not interfere with religious observances.

Amidst all the discussion about election reform, there is growing support to increase voter turnout and satisfaction. Oregon conducted the first presidential elections completely by mail, resulting in impressive increases in voter turnout. Texas has implemented an early voting plan which has increased in voter turnout. And California has relaxed restrictions on absentee voting, and even had weekend voting in some localities. Although there are security concerns that need to be ironed out, Internet voting has tremendous potential to transform the way we vote. In Arizona's Democratic primary 46 percent of all votes came via the Internet. The Defense Department coordinated a pilot program with several U.S. counties and the Federal Voting Assistance Program. They have worked with the military voters, cast their votes via the Internet. It is becoming increasingly clear that these new models can increase
voter turnout, and voters are much more pleased with the additional convenience and ease with voting.

For decades we’ve seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote—by that number dropped to 49 percent in the election. We saw a minor increase in this past election with voter turnout at 51 percent of eligible voters, however, not a significant increase given the closeness of the election. Non-Presidential year voter turnout is even more abysmal.

Analysts point to a variety of reasons for this drop off. Certainly, common sense suggests that the general decline in voter confidence in government institutions is one logical reason. However, I’d like to point out, one survey of voters and nonvoters suggested that both groups are equally disgruntled with government.

Thus, we must explore ways to make our electoral process more user-friendly. We must adjust our institutions to the needs of the American public of the 21st century. Our democracy has always had the amazing capacity to adapt to the challenges thrown before it, and we must continue to do so if our country is to grow and thrive.

Of 44 democracies surveyed, 29 of them allow their citizens to vote on holidays or the weekends. And in nearly every one of these nations, voter turnout surpasses our country’s poor performance. We can do better. That is why I am proposing that we consider weekend voting.

I recognize a change of this magnitude may take some time. But the many questions raised by our last election have given us a unique opportunity to reassess all aspects of voting in America. We finally have the momentum to accomplish real reform. How much lower should our citizens’ confidence plummet before we adapt and create a more ‘consumer-friendly’ polling place? And why should voting turnout decline before we realize we need a change?

The Weekend Voting Act will not solve all of this democracy’s problems, but it is a commonsense approach for adapting this grand democratic experiment of the 18th century to the American family’s lifestyle of the 21st century.

By Mr. INHOFE (for himself and Mr. NICKLES):

S. 1321. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; to the Committee on Indian Affairs.

Mr. INHOFE. Madam President, as many people may be aware, my state of Oklahoma has well over a quarter of a million American Indians. Even Oklahomans derive its name from the Choctaw words, “okla” meaning people and “hum” meaning red. Today, I am pleased to introduce, along with my colleague, Senator Nickles, a bill that will provide a grant to help fund the construction and development of the Native American Cultural Center and Museum, which will be centrally located along the North Canadian River at the southeast corner of Interstate 35 and Interstate 40, in Oklahoma City. This project marks the culmination of years of work by many people, including state Senator Kelly Haney, who is recognized worldwide for his Indian art.

The Native American Cultural Center will provide people from all over the world, including the picture of American Indians from the earliest civilization in North America, to their current role in today’s society. Through art, music and dance, visitors will be able to see the wide array of lifestyles, customs and language of American Indians come alive as they walk through the various displays. The Center will include a 300-seat theater, a museum store, a 40,000 square-foot amphitheater, a festival market place, and science exhibits. As an affiliate of the Smithsonian Institution, it will share and showcase artifacts from one of the world’s most renowned museums. An internationally acclaimed team of architects, planners, engineers, and technical consultants, who have participated in projects from the National Holocaust Museum to films such as Jurassic Park, have come together to create a complex that features the distinct characteristics of all of Oklahoma’s tribes.

By bringing economic development and cultural diversity to Oklahoma, the Native American Cultural Center and Museum will not only benefit the people of Oklahoma, but the nation as a whole. This important project will serve as a reminder of the rich heritage of the first Americans as well as a symbol of hope and progress for the future.

Mr. NICKLES. Madam President, today I am pleased to introduce legislation with Senator INHOFE that will allow us to bring a Native American Cultural Center to Oklahoma.

For many years there has been a desire among Oklahomans to develop a facility to chronicle the history of the 39 tribes that currently reside in Oklahoma. Oklahoma is fortunate to have the second largest Native American population in the country.

Senator INHOFE and I are introducing legislation today that will do just that. The Cultural Center will feature the influential role that Native Americans played in our country’s history. The Center will also provide a common ground to meet and discuss the issues and concerns that continue to plague our Indian communities. The Cultural Center is a partnership with the Oklahoma Historical Society to become a member of the Smithsonian Affiliates Program.

It is important to note that the Center will assist in communicating the history and culture of all Native Americans, not just Oklahomans.

This project is strongly supported in Oklahoma. In fact, two-thirds of the funds for the Center will come from the State of Oklahoma and private donations, a maximum of one-third coming from the Federal Government.

I look forward to the opening of a state-of-the-art Native American Cultural Center and Museum in Oklahoma.

By Mr. KERRY:

S. 1323. A bill entitled the “SBIR and STTR Foreign Patent Protection Act of 2001”; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY, Madam President, today I am introducing a bill to establish a five-year pilot program at the Small Business Administration to help protect the intellectual property of companies that are trying to export promising technology they have developed through the Small Business Administration’s Small Business Innovation Research, SBIR, and Small Business Technology Transfer, STTR, programs. This week is a particularly appropriate time to introduce this legislation because 217 years ago on this very first U.S. patent was issued. It was issued to Mr. Samuel Hopkins of Pennsylvania and signed by President George Washington himself.

A lot has changed in the past two centuries, but the need to protect intellectual property remains as important as ever. Our forefathers had the wisdom to guarantee “inventors the exclusive right to their respective discoveries” in the United States. Today, the need for foreign patent protection is equally critical for international sales.

These small businesses need help because protecting the intellectual property of the technology they export requires them to file foreign patents, and the costs associated with filing such patents are often prohibitively expensive. We know this because it has been documented through outside research and testimony before the Senate Committee on Small Business and Entrepreneurship. For example, Mr. Clifford Hoyt, who is vice president and chief technology officer of Cambridge Research and Instrumentation, testified on June 21st, as part of the Committee’s hearing on reauthorization of the SBIR program, that protection in Europe is $20,000.” Information from the American Intellectual Property Law Association’s, AIPLA, spring meeting shows that the costs of foreign patents range from $7,200 in Canada to $27,200 in Japan. Those costs include fees for the business administration, translation, and attorneys.

Interestingly enough, foreign patent protection costs are not just an obstacle for small businesses; they also affect our universities. Let me quote Dr. Anthony Pirri, who is chief technology officer of Cambridge Research and Instrumentation, testified on June 21st, as part of the Committee’s hearing on reauthorization of the SBIR program, that protection in Europe is $20,000.” Information from the American Intellectual Property Law Association’s, AIPLA, spring meeting shows that the costs of foreign patents range from $7,200 in Canada to $27,200 in Japan. Those costs include fees for the business administration, translation, and attorneys.

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like Northeastern with limited resources, the patent expense burden is large. It is especially large because many of our technologies have international significance and require us to patent, do foreign filings. Therefore, anything we could do to help in that world would be very desirable.

This problem was first identified in 1996 through a research study financed by the SBA's Office of Advocacy entitled "Foreign Patenting Behavior in Small and Large Firms." That study found that following behavior: small businesses were filing fewer patents overseas than large businesses for similar innovative products primarily due to a lack of funds to obtain foreign patents.

Foreign patent protection is important to eventual commercialization. However, if technologies of small businesses aren't protected, large foreign-owned firms can replicate the product and benefit directly from a U.S. Federally funded research effort. I am obviously concerned about this. To help small innovative companies overcome such barriers, and to maximize our investment in the SBIR and STTR technologies, the Small Business Administration should be authorized to provide grants to underwrite the costs of initial foreign patent applications filed by SBIR and STTR companies. Ultimately, the goal is for the grant fund to be self-sustaining, generated from a percentage of the relevant technology's export sales or licensing fees.

Here's how the grants would work: The SBA would be authorized to award grants of up to $25,000 to companies seeking foreign patent protection for their technology or product developed under the SBIR and STTR programs. Each company would be limited to one grant and, in order to be eligible for the grant, it must have already filed for protection in the United States. Both of these provisions are designed to ensure, to the extent possible, that companies apply for their most promising technologies and therefore return money to the grant fund. By giving the companies only one shot at a grant to protect and make money from their SBIR or STTR technologies, it forces them to select the one most likely to succeed and have sales. At the same time, requiring companies to have already filed for patent protection in the United States prior to seeking a foreign patent grant is a gauge of the company's confidence in the commercial potential of its technology. It also demonstrates the company's commitment to protecting that technology.

The bill establishes the program at $25 million in the first year and increases that amount gradually over four years to $10 million annually. In FY2003, the bill authorizes $2.5 million, in order to fund 100 grants of $25,000.

In FY2004, the bill authorizes $5 million, in order to fund 200 grants of $25,000.

In FY2005, the bill authorizes $7.5 million, in order to fund 300 grants of $25,000.

In FY2006 and FY2007, the bill authorizes $10 million a year, in order to fund 400 grants of $25,000.

As I said earlier, ultimately the goal is for this to be a self-sustaining grant fund. To realize that money, in return for the grants, each recipient would be obligated to pay between three percent and five percent of its related export sales or licensing fees to the fund, to be known as the "SBIR and STTR Foreign Patent Protection Grant Fund." To maintain a reasonable incentive for the small businesses, the total amount should be capped at four times the amount of the grant, which for a $25,000 grant would be $100,000.

I have talked about many of the needs and merits of this legislation, but in closing I would like to add that increased, successful exports by our innovative small businesses could mean a lot to the U.S. economy overall. We have seen the balance of trade deficits rise steadily for many years. According to the U.S. Census Bureau's Foreign Trade Division, in last year alone our country's trade balance deficit was $436 billion. The first four months of 2001 are slightly worse. We should be doing everything that we can to improve upon our exports, and small businesses can play an important role in that arena.

I hope that my colleagues will join me in sponsoring this bill. This pilot, if enacted and implemented properly, has the potential to greatly benefit small businesses, protect their innovations and promote their innovations.

I thank the President and ask that the text of the bill be printed in the Record.

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

S. 1323

SEC. 1. SHORT TITLE.
This Act may be cited as the "SBIR and STTR Foreign Patent Protection Act of 2001".

SEC. 2. FINDINGS.
The Congress finds that—
(1) small business concerns represent approximately 96 percent of all exporters of goods;
(2) there has been dynamic growth in the number of small business concerns exporting goods, and the dollar value of their exports;
(3) despite such growth, small business concerns encounter problems in obtaining financing for exports;
(4) growth in United States exports will depend primarily on technology innovation, making the protection of intellectual property in the global market of special national interest;
(5) the costs of filing for initial patent protection are prohibitively expensive for small business concerns involved in the Small Business Innovation Research Program referred to in this section as "SBIR") and the Small Business Technology Transfer Program referred to in this section as "STTR"); representing an insurmountable barrier to obtaining the protection needed to pursue international markets; and
(6) to overcome such barriers and to maximize the Federal investment in the SBIR and STTR programs, the Small Business Administration should be authorized to provide grants to be used to underwrite the costs of initial foreign patent applications by SBIR and STTR awardees; and
(a) a total of 100 SBIR and STTR awardees in fiscal year 2003;
(b) a total of 200 SBIR and STTR awardees in fiscal year 2004;
(c) a total of 300 SBIR and STTR awardees in fiscal year 2005; and
(d) a total of 400 SBIR and STTR awardees in each of fiscal years 2006 and 2007.

(3) GRANT PURPOSES.—Grants made under this subsection shall be used by awardees to underwrite costs associated with initial foreign patent applications for technologies or products developed under the SBIR or STTR program, and for which an application for United States patent protection has already been filed.

(4) CONSIDERATIONS.—In awarding grants under this subsection, the Administrator shall consider—
(A) the size and financial need of the applicant;
(B) the potential foreign market for the technology;
(C) the time frames for filing foreign patent applications; and
(D) such other factors as the Administrator deems relevant.

(5) GRANT AMOUNTS.—The amount of a grant made to any SBIR or STTR awardee under this subsection may not exceed $25,000, and no awardee may receive more than 1 grant under this subsection.

(6) ESTABLISHMENT OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund, which shall be—
(A) known as the "SBIR and STTR Foreign Patent Protection Grant Fund" (referred to in this subsection as the "Fund");
(B) administered by the Office of Technology of the Administration; and
(C) used solely for grants made under this subsection and to pay the costs of the Administration of administering those grants.

(7) ROYALTY FEES.—(A) In general.—Each recipient of a grant under this subsection shall pay a fee to the Administrator, to be deposited into the Fund, based on the export sales receipts or licensing fees, if any, from the product or technology that is the subject of the foreign patent petition.

(B) ANNUAL INSTALLMENTS BASED ON RECEIPTS.—The fee required under subparagraph (A)—
(i) shall be paid to the Administration in annual installments, based on the export sales receipts or licensing fees, if any, from the product or technology that is the subject of the foreign patent petition; and
(ii) shall be calculated as follows:

SEC. 3. ESTABLISHMENT OF GRANT PILOT PROGRAM.
Section 9 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following—

(8) FOREIGN PATENT PROTECTION GRANT PILOT PROGRAM.—
(1) a total of 100 SBIR and STTR awardees in fiscal year 2003;
(a) a total of 200 SBIR and STTR awardees in fiscal year 2004;
(C) a total of 300 SBIR and STTR awardees in fiscal year 2005; and
(D) a total of 400 SBIR and STTR awardees in each of fiscal years 2006 and 2007.
"(ii) shall not be required to be paid in any calendar year in which no export sales receipts or licensing fees described in subparagraph (A) are collected by the grant recipient; and

"(iii) shall not exceed, in total, the lesser of—

"(I) an amount between 3 percent and 5 percent as determined by the Administrator, of the total export sales receipts and licensing fees referred to in subparagraph (A); or

"(II) 4 times the amount of the grant received.

(8) ADMINISTRATIVE PROVISIONS.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall—

"(A) issue such regulations as are necessary to carry out this subsection; and

"(B) establish appropriate application and other administrative procedures, as the Administrator deems necessary.

(9) REPORT.—The Administrator shall, on January 31, 2006, submit a report to the Congress on the grants authorized by this subsection, which report shall include—

"(A) the number of grant recipients under this subsection since the date of enactment of this subsection;

"(B) the number of such grant recipients that have made foreign sales (or granted licenses to make foreign sales) of technologies or products developed under the SBIR or STTR program;

"(c) the total amount of funds paid into the Fund by recipients of grants under this subsection in accordance with paragraph (7);

"(D) recommendations for any adjustment in the percentages specified in paragraph (7)(B)(iii)(I) or the amount specified in paragraph (7)(B)(iii)(II) necessary to reduce to zero the cost to the Administration of making grants under this subsection; and

"(E) any recommendations of the Administrator regarding whether authorization for grants under this subsection should be extended, and any necessary legislation related to such an extension.

(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund, to remain available until expended—

"(A) $2,500,000 for fiscal years 2003; and

"(B) $5,000,000 for fiscal year 2004; and

"(C) $7,500,000 for fiscal year 2005; and

"(D) $10,000,000 for each of fiscal years 2006 and 2007.

By Mr. LIEBERMAN:

S. 1324. A bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000; to the Committee on Finance.

Mr. LIEBERMAN. Madam President, today I am introducing a second proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced a bill, S. 1142, raising this issue going forward and today I am introducing a bill to provide relief to the victims of this perverse tax who filed returns and paid taxes this past April. As I will explain, they were hit by the tax equivalent of the perfect storm.

The argument for reform of the AMT as applied to ISOs is overwhelming. An employee who receives ISOs is taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and is required to pay the AMT tax on these “gains” even if the “gains” do not, in fact, exist. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax, go into default on his or her AMT liability, or even declare bankruptcy.

This Kafkaesque situation is unfair. It is not merely a tax on “income” or “gains” unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the “gains” exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

In terms of relief to taxpayers hit with the AMT on ISOs in their filing for 2000 taxes, let me make a series of points.

First, there have been victims of the AMT/ISO tax going back before 2000. But, there were an unprecedented number of victims this last year due to a convergence of events.

Over the last decade, more and more companies have adopted broad-based stock option plans where all or almost all employees receive ISOs, rather than only senior management.

In addition, the Internet and telecommunications boom spawned an unprecedented number of start-up companies over the last few years. These start-ups overwhelmingly favor the use of ISOs as a means of attracting and motivating employees, and many of these companies grant options to most, if not all of their employees.

Then, as we all know, the stock market, especially the technology-driven NASDAQ, posted record highs in the spring of 2000, and then collapsed over the next 12 months, astounding even seasoned professionals. Many of the high-flying technology companies saw their stock value drop 80 percent to 90 percent during this period.

As a result, the relatively unknown AMT caught many employees by surprise. Other employees were aware of the AMT but hoped that they could claim a full credit for the AMT once they sold the stock acquired by exercise of ISOs. Some were unable to sell before year-end, in order to eliminate the AMT hit, by trading restrictions. Others were naïve in thinking that the value of the shares they held would rebound in 2001, in time to sell the stock and pay their AMT liability for 2000.

In short, in tax year 2000 we saw the tax equivalent of the perfect storm.

Second, the imposition of AMT on individuals discourages the very behavior that Congress wanted to encourage with the creation of ISOs. In 1984, the Senate Finance Committee noted the goal of ISOs to “encourage employee ownership of the stock on an employer’s business” by allowing for “the deferral of tax until an employee disposes of the stock received through the exercise of an employee stock option”. To encourage individuals to hold shares with the promise of capital gains tax treatment that Social Security and Medicare are defeated when the AMT is imposed at the time they exercise an option even if the “gains” are never realized.

The taxpayers who held their shares and realized gain are the ones who deserve relief. They fell into a trap which the tax code created through its perverse and confusing structure.

Third, the trap was one that many of these employees did not understand. The right thing to do—the AMT was directed at taxing the wealthy and could not possibly affect them. This is a case where the complexity of the tax and the contradictory incentives it provides for ISOs lured the victims into the trap.

Fourth, we are likely to see a major debate on AMT reform, but this is a broader debate about the fundamentals of the tax code, not a tax trap like we have with ISOs. An increasing number of taxpayers find themselves paying the AMT because they have large state tax deductions or large numbers of personal exemptions. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. The AMT they may pay may be infuriating, but it would normally not substantially increase their overall tax.

The AMT paid because of ISOs can be hundreds of thousands or even millions of dollars and can be devastating. It can cause a tax liability that is many times the taxpayer’s total income. This is a problem that needs to be addressed not, now when we finally take up broad-based AMT reform.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $1.3 billion over ten years. This is substantially less expensive than the cost of my earlier bill, which was estimated to cost $12.412 billion over ten years. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal surplus.

The budget situation we face will not make it easy to enact these reforms. The massive tax cut of $1.3 trillion was financed from the surpluses. We are now finding that it was, as I and others feared, way too large and leaves us no room to take up additional tax measures. In fact, just last week we saw reports of a memo leaked where Republicans predicting that the Congressional Budget Office deficit/budget updates in August would find that we have zero available surplus beyond the Social Security and Medicare trust funds in fiscal year 2002 and that Congress may have to dip into those trust funds by nearly $1 billion in fiscal year 2003. If this is true, it would leave us no room to cut taxes, pay down the national debt, and provide dollars available for other uses, such as growth tax incentives, fixing the ISO/AMT problem, education, energy or defense, in fiscal year 2002. The fiscal year 2002 budget resolution bars Congress from spending any money in either of these areas with Social Security and Medicare Part A trust funds for any purpose other than Medicare or Social Security.
I recount this here because it means that we must find a revenue or spending offset to finance our ISO/AMT proposal, or any other growth tax incentive. We cannot use the surplus. This raises a substantial barrier to enactment of this proposal and it is a barrier that we could have easily avoided had we enacted a tax cut we could afford.

I am pleased that today Rep. RICHARD NEAL, Tom Davis, Zoe Lofgren, and Jerry Weller are introducing the same bill in the other body. Earlier, Representative Lofgren introduced H.R. 1487, a bipartisan bill that has given a great deal of visibility to this issue. I look forward to working with my distinguished House colleagues to remedy this inequity in the tax code, both for victims in 2000 and going forward.

Finally, let me note that I have proposed in S. 1134 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and employees in stock option plans, by in- vestors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble with ISOs would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

We need to fix the ISO/AMT problem so that capital gains incentives for entre- preneurs will work as intended and provide the boost to economic growth.

We need also to focus on the victims of the 2000 perfect storm.

I ask that two documents be printed at this point in the RECORD, an explanation of my bill and a comparison of incentive and nonstatutory stock options. Both have been prepared by pro- fessionals in stock option plans, by in- 

**TABLE:**

<table>
<thead>
<tr>
<th>Event</th>
<th>Incentive stock options</th>
<th>Nonstatutory stock options</th>
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<tbody>
<tr>
<td>Grant Date: For example, you are granted the right to purchase 1,000 shares at $1.50 per share vesting over 4 years.</td>
<td>The grant of an incentive stock option is not a taxable event.</td>
<td>The grant of a nonstatutory stock option is almost always not a taxable event.</td>
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<tr>
<td>Vesting Date: For example, after one year you have the right to purchase 250 shares.</td>
<td>Vesting is not a taxable event.</td>
<td>Vesting is not a taxable event.</td>
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<tr>
<td>Exercise Date: For example, you pay $1,500 and purchase all 1,000 shares when they are worth $13.50 each, i.e., $13,500 for a spread of $12,000. (This discussion assumes the shares received upon exercise are not re- stricted under tax law.)</td>
<td>The exercise of ISOs is not a taxable event for regular tax. However, the spread or bargain element is a tax preference item for the alternative minimum tax (AMT).</td>
<td>The spread at exercise ($12 per share) is compensation income reportable on your W-2 and subject to income and payroll tax withholding. You get tax basis in the stock equal to the Fair Market Value on the exercise date, i.e., $13.50 per share. AMT does not apply to ISOs.</td>
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<tr>
<td>Sale Date: For example, you sell the shares for $13.50 each, i.e., $13,500 for a spread of $12,000.</td>
<td>If you meet the holding rules below, the entire spread ($13,500) on the date of sale is a capital gain. If you hold the stock, you get a credit for any alternative minimum tax you may have paid upon exercise, but you may not be able to use it all in any given year.</td>
<td>The difference between the sale price, i.e., $13.50 and tax basis of $13.50 is a capital gain (you already have a tax spread at ex- exercise.) For sales after 12/15/01, you must hold the shares for more than one year to get long term capital gain treatment. You could also have loss, if so, it would be a capital loss.</td>
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**Special ISO Holding Rule:** You must hold your ISO shares for more than one year from the date of ex- exercise and two years from the grant date in order to have the entire spread taxed as a capital gain. Holding these period- s converts the spread to capital gains. If you hold the stock for less than three years, you could have a short-term capital loss. If you sell within the first year, you may have to pay tax on your short-term capital loss, but if you sell after the first year, you could have an alternative minimum tax in the year of exercise (based on the spread at ex- exercise).
By Mr. MURKOWSKI:

S. 1325. A bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain former Naval Air Facility on Adak Island, AK. At the same time, this legislation will allow the Aleut people of Alaska to reclaim the island and to make use of its modern infrastructure and important location.

The legislation I introduce today is very similar to a bill I introduced nearly four years ago in the 105th Congress. It ratifies an agreement between the Aleut Corporation, an Alaska Native Regional Corporation, the Department of the Interior and the Department of the Navy. In 1997, The Aleut Corporation, the U.S. Navy and the Interior Department were still in the process of negotiating and structuring the Agreement to provide for the fair and responsible disposal of the old military facility. I am pleased to tell you that "The Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak AK" was signed last September. Thus, the time is now appropriate for Congress to consider the Agreement and ratify its provisions to allow for final transfer.

The bill and the Agreement also further the conservation of important wildlife habitat within the Aleutians region of Alaska. A portion of Adak is within the Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. The Agreement facilitates the Department of the Interior's continued management and protection of some unique lands on Adak, including responsibility for environmental remediation, institutional controls, indemnification, required mitigation and reservation of lands for government use. The environmental remediation work of the Navy is still ongoing and will continue to an extent for several more years. However, all the interested parties agree that a final success will be within the next twelve months. Hence the need for this legislation.

This bill furthers our Nation's objective of conversion of closed defense facilities into commercial reuse, it benefits the Aleut people and restores them to their ancestral lands and it benefits the National Wildlife Refuge System. I believe everyone will agree that such legislation is important and worthy of our support.

By Mr. LUGAR:

S. 1326. A bill to extend and improve working lands and other conservation programs administered by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Madam President, I rise today to introduce the Working Lands Conservation Act. The bill is intended to achieve two major goals: first, to assist our farmers and ranchers in meeting short-term environmental challenges, such as water and air quality concerns and the regulation of animal feeding operations; secondly, to enhance the long-term quality of our environment and sustainability of our natural resources.

As some of my colleagues may recall, the Senate Agriculture Committee has a long history of bipartisan cooperation on conservation. From the Conservation Reserve, to the Wetlands Reserve, to the Environmental Quality Incentives Program, we have consistently sought to improve our Nation's environment. We have laid aside partisan differences when it has come to conservation and our natural resources are better because of our joint efforts.

In that spirit, my bill joins those of several of my colleagues and represents a foundation for our work on the conservation title of the farm bill. Senator HARKIN has introduced the Conservation Security Act—an innovative idea that would reward good conservation farmers for their environmental efforts and thus foster conservation and environmental improvements.

Senators CRAIG, FEINSTEIN, and THOMAS have introduced a Grasslands Reserve Act that would protect and restore one million acres of our fragile grasslands while allowing the owners to maintain economic use of the land. Senators HUTCHINSON and LINCOLN have a bill that reauthorizes and expands the Wetlands Reserve Program.

Senator CRAPO has introduced a bill, of which I am a cosponsor, that covers many of the items in the conservation title of the current farm bill. I know he has put much thought into his bill and I look forward to working with him and my other colleagues as we fashion the conservation title of the new farm bill.

While there are many valid approaches on how we should foster improvements in our environment, this bill invests in our working lands—the land we use to grow our food, our fiber; the land we depend upon for sustenance. This working land cropland, pasture, rangeland, and private forests, is some 70 million acres of land in areas of the contiguous 48 States. How this land is managed has profound effects on our economy and environment. The farm bill we are cross developing is one of the most important pieces of environmental and natural resource legislation this Congress will address. It is essential that the conservation title be a major component of the legislation we develop together.

Since 1985, the last time Congress made a major investment in conservation as part of a farm bill, we have spent most of our conservation dollars through programs that set aside productive cropland as a primary means of achieving our environmental goals. Those efforts are certainly worthwhile and I support continuing them. Indeed the preeminent land-idling program we have, the Conservation Reserve, was introduced on my farm in Indiana and I continue to support it.

But we cannot land-idle our way to an environment performance. The folly of this, solely from a resource conservation standpoint—is evident from the situation we now see after fifteen years.
of extensive land idling through the Conservation Reserve. After having set aside up to 36.4 million acres at one point, State water quality reports today will name nonpoint source pollution as the Nation’s biggest water quality issue. Agriculture as the biggest culprit, primarily due to sediment, nutrient loadings, and pathogens. While the Conservation Reserve has many benefits, particularly wildlife habitat in the Great Plains, it is obvious that land- idling schemes will not solve all of the problems associated with water and air quality. Yet these are the environmental challenges that confront most farmers today, and the ones most likely to result in costly new regulation for our farmers and ranchers. How we deal with these environmental challenges will affect the commercial viability of farming and ranching over the next decade.

A quick review of how we are spending our voluntary conservation dollars will show just how much ground we have to make up. In 1985, 97 cents of every financial assistance dollar from the U.S. Department of Agriculture went to working lands; three cents went to land retirement. Today, the situation is nearly reversed with some 85 cents going toward land retirement, primarily through the Conservation Reserve, and only 15 cents going toward working lands. This over-reliance on massive- scale land-idling schemes comes at the expense of caring for working lands, and, given the contemporary environmental issues facing landowners, this imbalance must be addressed during our reauthorization of the farm bill.

For our working lands to continue to be productive, and to ensure that agriculture can tend to its environmental concerns, I believe that the overarching goal of the new conservation title should be to facilitate coordinated conservation on working agricultural lands. Much as President Theodore Roosevelt championed public land conservation early in the last century, today we must champion the care of our working lands.

Bringing conservation programs up to levels needed to address priority issues will require new funding. If you exclude the short-term emergency funding, the budget resolution provides an additional $5 billion for voluntary conservation above the baseline. I believe that a significant portion of this new spending should be devoted to conservation. My bill increases mandatory conservation spending by approximately $2 billion per year. This amount would effectively double our investment in voluntary, incentive-based conservation programs. And, because of the funding provided by the budget resolution, we can enhance our working lands programs without cutting or diminishing our existing land retirement programs.

To focus on working lands, our first order of business is to strengthen the Environmental Quality Incentives Program, EQIP, as it is called, offers financial, technical and educational assistance to farmers and ranchers and is generally seen as the workhorse conservation program for working lands. In essence, the EQIP integrates merging four other conservation programs and provides $200 million a year in mandatory spending. Today, requests for EQIP assistance far outstrip available funds and analyses show there is a demonstrated need for an additional $12 billion per year to address the anticipated needs of the livestock industry alone. My bill established national priorities for EQIP, makes several needed reforms to the program such as shortening the length of the contract and removing discriminatory size restrictions, and provides $1.5 billion a year to be phased-in over a three year period.

In addition, my bill provides more flexibility and financial incentives within EQIP to address at the outset one of the state and local level, partnerships that are essential to meeting the environmental challenges agriculture faces. My bill establishes a grants section within EQIP to leverage federal dollars with non-federal entities and encourages states to develop plans that bring together multiple Federal, State, and local programs to create coordinated conservation strategies at the state level. The already demonstrated good experience on this score through the Conservation Reserve Enhancement Program and the continuous signup program for buffer practices. My bill expands this concept by making private and other non-federal entities eligible for a special $100 million matching grant program within EQIP. The grant program would create cooperative federal/non-federal ventures that would spur conservation on private lands by investing in nutrient management initiatives. Under my proposal, non-federal entities would bid to have their proposals approved and then combine their federal with federal investments to stimulate more use of market-based solutions in areas such as water quality or carbon credit trading. For example, drinking water suppliers facing the necessity, and cost, of building new treatment facilities might find it less expensive to pay upstream farmers and ranchers to implement watershed improvements in their local drinking water facilities, thereby obviating the need for new treatment facilities. Taken together, these provisions will spark creative and innovative approaches to conservation that will work better for farmers, ranchers, communities and the environment.

Reforming, adequately funding, and focusing the Environmental Quality Incentives Program on national environmental issues will dramatically accelerate the amount of conservation on our working lands. But it will also require that we resolve one of the key problems we face today—the lack of qualified technical assistance to help our farmers and ranchers plan, design, install, and maintain conservation practices. Insufficient annual appropriations for USDA’s Natural Resources Conservation Service over the past decade have caused a steady decline in the number of field staff available to give landowners technical advice. At the same time, demand for technical assistance has ballooned as producers grapple with conservation challenges.

My bill ensures that technical assistance will be available to implement conservation by reforming the so-called section 11 Cap in the Commodity Credit Corporation Charter Act. The Commodity Credit Corporation is allowed to reimburse agencies for work they do for the various programs under the Corporation, but the section 11 cap limits total reimbursements to no more than $36.2 million annually. The cap was put on by Congress to control computer purchases by the Department of Agriculture, but the unintended side effect of limiting technical assistance reimbursement for conservation programs. To resolve the problem, my bill exempts conservation technical assistance reimbursements from the cap.

Reforming the section 11 Cap will help solve part of the problem, but my bill also looks to the private and non-profit sector to help fill the technical assistance gap. Crop advisors, farm managers, private landowners, engineers, conservation district professionals, and other qualified individuals could help fill the technical assistance gap for many landowners who are willing to pay for their services. My bill creates a fee-based certification program within USDA to increase the number of technical assistance providers and provides for the use of incentive payments to help farmers and ranchers pay for qualified technical assistance for nutrient management plans. In all cases, work done by third parties would have to meet the technical standards of the Natural Resources Conservation Service.

Maintaining the confidentiality of producer information, contained in USDA files is vital to voluntary private lands conservation. Farmers and ranchers must be confident that their private business information will not be compromised if they participate in a voluntary conservation program. My bill also includes provisions to protect the confidentiality of the information farmers and ranchers disclose when developing conservation plans. Insufficient annual appropriations for USDA’s Natural Resources Conservation Service over the past decade have caused a steady decline in the number of field staff available to give landowners technical advice. At the same time, demand for technical assistance has ballooned as producers grapple with conservation challenges.

My bill includes provisions to protect the confidentiality of the information farmers and ranchers disclose when developing and implementing conservation plans without affecting current Freedom of Information Act procedures.

Strengthening EQIP and our technical assistance capabilities are the two most important priorities my bill
ways to simplify and streamline programs and explore potential consolidations. The bill requires the Secretary of Agriculture to develop a comprehensive list of USDA conservation programs and their priority environmental needs such as water quality, air quality, and soil quality. My bill also reauthorizes, amends, and increases funding for the Conservation Reserve Program, a voluntary program that provides financial assistance to farmers who want to retire their land. The bill also expands participation in the program to non-profit organizations and creates an incentive for retired farmers to continue to produce food and fiber. The bill recognizes that farmers and ranchers are much more than food and fiber producers. They are the most important natural resource managers on the land. My bill will give them the technical and financial tools they need to care for the land and our environment.

As a Nation, we entrust the care of the land to our farmers and ranchers, who work the land and produce the food and fiber we demand. This bill recognizes that the land and the people who work the land are more than just producers of food and fiber. They are the most important natural resource managers on the land. My bill will give them the technical and financial tools they need to care for the land and our environment.

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

TITLE II—WORKING LANDS CONSERVATION PROGRAMS

SEC. 101. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) In general.—Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838aaa et seq.) is amended to read as follows:}

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

SEC. 1204. PURPOSES.

"The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production, protected water quality, and environmental quality as compatible national goals, and to maximize environmental benefits per dollar expended, by—

(1) assisting producers in complying with this title, the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and other Federal, State, and local environmental laws (including regulations);

(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in providing soil, water, air, and related natural resources and maintaining environmental quality criteria established by Federal, State, and local agencies;

(3) providing flexible technical and financial assistance to producers to install and maintain conservation systems and enhance soil, water, related natural resources (including grazing land and wetland), and wildlife habitats to sustain production of food and fiber;

(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land;

(5) facilitating partnerships and joint efforts among producers and governmental and nongovernmental organizations; and

(6) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals."

SEC. 1206A. DEFINITIONS.

"In this chapter:

(1) COMPREHENSIVE NUTRIENT MANAGEMENT.—

(A) IN GENERAL.—The term ‘comprehensive nutrient management’ means any combination of structural practices, land management practices, and management activities associated with crop or livestock production described in subparagraph (B) that collectively ensure that the goals of crop or livestock production and preservation of natural resources, especially the preservation and enhancement of water quality, are compatible.

(B) ELEMENTS.—For the purpose of subparagraph (A), structural practices, land management practices, and management activities associated with livestock production are—

(1) manure and wastewater handling and storage;

(2) land treatment practices;

(3) nutrient management;

(4) structural practices, land management practices, and management activities associated with crop or livestock production described in subparagraph (B) that collectively ensure that the goals of crop or livestock production and preservation of natural resources, especially the preservation and enhancement of water quality, are compatible.

(5) waste utilization options.

(6) other waste utilization options.

(C) PRACTICE.—The development of a comprehensive nutrient management plan shall be a practice that is eligible for incentive payments and technical assistance under this chapter.

(D) IMPLEMENTATION.—The implementation of a comprehensive nutrient management plan shall
be accomplished through structural and land management practices identified in the plan.

(2) ELIGIBLE LAND.—The term ‘eligible land’ means agricultural land (including cropland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

(3) STRUCTURAL PRACTICE.—The term ‘structural practice’ means a site-specific nutrient or manure management practice, land management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

(4) LIVESTOCK.—The term ‘livestock’ means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

(5) MAXIMIZE ENVIRONMENTAL BENEFITS PER DOLLAR EXPENDED.—

(A) IN GENERAL.—The term ‘maximize environmental benefits per dollar expended’ means to maximize environmental benefits to the extent the Secretary determines is practical and appropriate, taking into account the amount of funding made available to carry out this chapter.

(B) LIMITATION.—The term ‘maximize environmental benefits per dollar expended’ does not require the Secretary—

(i) to provide the least cost practice or technical assistance; or

(ii) to require the development of a plan under section 1290E as part of an application for payments or technical assistance.

(6) PRACTICE.—The term ‘practice’ means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

(7) PRODUCER.—The term ‘producer’ means a person that is engaged in livestock or agricultural production, as determined by the Secretary.

(8) STRUCTURAL PRACTICE.—The term ‘structural practice’ means—

(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, riparian buffer, riparian or other wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

(B) the capping of abandoned wells on eligible land.

SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(1) ESTABLISHMENT.—

(A) In general.—During each of the 2003 through 2011 fiscal years, the Secretary shall provide technical assistance, cost-share payments, and incentive payments to producers, that enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

(B) ELIGIBLE PRACTICES.—

(1) STRUCTURAL PRACTICES.—A producer that implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

(2) LAND MANAGEMENT PRACTICES.—A producer that performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

(3) COMPREHENSIVE NUTRIENT MANAGEMENT PRACTICE.—A producer that develops a comprehensive nutrient management plan shall be eligible for any combination of technical assistance, incentive payments, and education.

(4) EDUCATION.—The Secretary may provide conservation education at national, State, or local levels in the programs established under this chapter.

(5) MAXIMIZE ENVIRONMENTAL BENEFITS.—

(A) IN GENERAL.—The term ‘maximize environmental benefits’ means to maximize environmental benefits per dollar expended.

(B) APPLICATION AND EVALUATION.—

(i) a reasonable estimate of the projected cost of the proposed plan or the proposed practice, as determined by the Secretary, including that the processes of writing and developing a comprehensive nutrient management plan be necessary to encourage a producer to perform 1 or more practices.

(ii) similar plans or proposed practices that would provide substantially the same level of environmental benefits.

(6) APPLICATION AND EVALUATION.—The process under subparagraph (A) shall be based on—

(i) the priorities established under this subtitle and other factors that maximize environmental benefits per dollar expended.

(ii) the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

(b) A PPLICATION.—

(1) IN GENERAL.—The Secretary shall establish an application and evaluation process for awarding technical assistance, cost-share payments, and incentive payments to a producer in exchange for the performance of 1 or more practices that maximizes environmental benefits per dollar expended.

(2) COMPAREABLE ENVIRONMENTAL VALUE.—

(A) IN GENERAL.—The Secretary shall establish a process for selecting applications for technical assistance, cost-share payments, and incentive payments when there are numerous applications for assistance for practices that would provide substantially the same level of environmental benefits.

(B) CRITERIA.—The process under subparagraph (A) shall be based on—

(i) a reasonable estimate of the projected cost of the proposals described in the applications, and

(ii) the prioritized establishment under this subtitle and other factors that maximize environmental benefits per dollar expended.

(c) COST-SHARE PAYMENTS.—

(1) IN GENERAL.—If the producer makes an offer to implement a structural practice or comprehensive nutrient management practice, the offer to be acceptable, the producer shall make an offer to implement a structural practice or comprehensive nutrient management plan, and at a rate determined by the Secretary to the offer.

(2) BIDDING DOWN.—If the Secretary determines that the environmental values of 2 or more applications for technical assistance, cost-share payments, or incentive payments are comparable, the Secretary shall not award the application only because it would present the least cost to the program established under this chapter.

(d) OTHER PAYMENTS.—

(1) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to a producer in exchange for the performance of 1 or more practices.

(2) DEDUCTIBLE EXPENSES.—

(A) IN GENERAL.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

(3) OTHER PAYMENTS.—Any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices shall be in addition to the Federal share of cost-share payments provided to the producer under paragraph (1).

(4) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for 1 or more practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and this chapter.

(e) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

(f) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

(B) AMOUNT.—The allocated amount may vary according to—

(i) the type of expertise required;

(ii) the quantity of time involved; and

(iii) other factors determined appropriate by the Secretary.

(C) LIMITATION.—Funding for technical assistance under this chapter shall not exceed the projected cost to the Secretary for the technical assistance provided for a fiscal year.

(D) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

(E) NON-FEDERAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may request the services of, and enter into a cooperative agreement with, a State water quality agency, State fish and wildlife agency, State forestry agency, or any other government or nongovernmental organization or person considered appropriate to assist in providing the technical assistance necessary to develop and implement conservation plans under the program.

(B) PRIVATE SOURCES.—

(i) IN GENERAL.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and in the implementation of practices covered by the contracts, are open to private persons, including—

(1) agricultural producers;

(2) representatives from agricultural cooperatives;

(3) agricultural input retail dealers;

(4) certified crop advisors;

(5) persons providing technical consulting services; and

(6) other persons, as determined appropriate by the Secretary.

(ii) OTHER CONSERVATION PROGRAMS.—The requirements of this subparagraph shall also apply to each other conservation program of the Department of Agriculture.

(g) INCENTIVE PAYMENTS FOR TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.
(B) PURPOSE.—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a private person earlier than the producer would otherwise receive the technical assistance from the Secretary.

(2) PAYMENT.—The incentive payment shall be—

(i) in addition to cost-share or incentive payments that a producer would otherwise receive for the development or implementation of a comprehensive nutrient management plan; and

(ii) used only to procure technical assistance from a private person that is necessary to develop any component of a comprehensive nutrient management plan; and

(iii) in an amount determined appropriate by the Secretary, taking into account—

(I) the extent and complexity of the technical assistance provided;

(II) the costs that the Secretary would have incurred in providing the technical assistance; and

(III) the costs incurred by the private provider in providing the technical assistance.

(3) ELIGIBILITY.—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

(E) CERTIFICATION BY SECRETARY.—

(1) In general.—The Secretary may enter into agreements with States, local governmental and nongovernmental organizations, and persons to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs described in subparagraph (B) to better reflect unique local circumstances and goals in a manner that is consistent with the purposes of this chapter.

(2) APPLICATIONS.—Subparagraph (A) shall apply to—

(i) the environmental quality incentives program established by this chapter;

(ii) the program to establish conservation buffers announced on March 24, 1998 (83 Fed. Reg. 14109) or a successor program;

(iii) the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 29659) or a successor program; and

(iv) the wetlands reserve program established under subchapter C of chapter 1.

(6) UNUSED FUNDING.—Any funds made available under this subsection that are not obligated by June 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.

(7) MODIFICATION OR TERMINATION OF CONTRACTS.—

(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

(A) the producer fails to meet the conditions of the contract; or

(B) the Secretary determines that the modification or termination is in the public interest.

(2) INVOLUNTARY TERMINATION.—The Secretary shall terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

SEC. 1240F. EVALUATION OF OFFERS AND PAYMENTS.—

In evaluating applications for technical assistance, cost-share payments, or incentive payments under this chapter, the Secretary shall accord a higher priority to assistance and payments that—

(1) maximize environmental benefits per dollar expended; and

(2)(A) address national conservation priorities involving—

(i) comprehensive nutrient management;

(ii) water quality, particularly in impervious watersheds;

(iii) soil erosion; or

(iv) air quality;

(B) are provided in conservation priority areas established under section 1208(b); or

(C) are provided in special projects under section 1208(b) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

SEC. 1240D. DUTIES OF PRODUCERS.

To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through 1 or more practices that are approved by the Secretary;

(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

(4) on the transfer of the right and interest of the producer in land subject to the contract to any other person, unless the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.—

(a) IN GENERAL.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the environmental quality incentives program, a producer of a livestock or agricultural operation shall—

(1) enter into a plan that includes an environmental quality incentives program plan that describes conservation and environmental goals of an environmental quality incentives program plan by—

(A) providing technical assistance in developing and implementing the plan;

(B) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

(C) providing the producer with information, education, and training to aid in implementation of the plan;

(D) encouraging the producer to obtain technical assistance, cost-share payments, or
grants from other Federal, State, local, or private sources.

SEC. 1240G. LIMITATION ON PAYMENTS.

(a) IN GENERAL.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

(1) $50,000 for any fiscal year; or

(2) $130,000,000 for fiscal years 2002, 2003 through 2011.

(b) ADJUSTMENTS.—The Secretary may modify the payment limitations for producers under subsection (a), on a case-by-case basis, if the Secretary determines that a different limitation—

(1) is warranted in light of 1 or more practices management is made

(2) maximizes environmental benefits per dollar expended and is consistent with the purposes of this chapter.

SEC. 1240H. CONSERVATION INNOVATION GRANTS.

(a) IN GENERAL.—From funds made available to carry out this chapter, the Secretary shall use $100,000,000 for each fiscal year to pay the Federal share of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the environmental quality incentives program.

(b) JUDGMENT.—The Secretary shall award grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

(1) involve producers that are eligible for payments or technical assistance under this chapter;

(2) implement innovative projects, such as—

(A) market-based pollution credit trading;

(B) provision of funds to promote adoption of best management practices; and

(C) leverage funds made available to carry out this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

(c) FEDERAL SHARE.—The Federal share of a grant made to carry out a project under this section shall not exceed 50 percent of the cost of the project.

(d) UNUSED FUNDING.—Any funds made available for a fiscal year under this section that are not obligated by June 1 of the fiscal year to carry out other activities under this chapter during the fiscal year in which the funding becomes available—

(b) FUNDING.—Section 1241(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)(1)) is amended—

(1) by striking “$300,000,000” and inserting “$650,000,000” and all that follows through “2002,” and inserting “$650,000,000 for fiscal year 2003, $1,000,000,000 for fiscal year 2004, and $1,500,000,000 for each of fiscal years 2005 through 2007”;

(2) by striking paragraph (2) and inserting the following:

(2) Obligation of funds.—If a contract under the total amount of quality incentives program is terminated prior to the date set out for the expiration for the contract and funds obligated for the contract are remaining, the remaining funds may be used to carry out any other contract under the program during the same fiscal year in which the original contract was terminated

(c) DEFINITION OF AGRICULTURAL LAND.—In this section, the term ‘agrimental land’ means land on a farm or ranch that is—

(1) cropland;

(2) rangeland or grassland;

(3) pastureland;

(4) private forest land;

(d) ESTABLISHMENT.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in agricultural land with prime, unique, or other productive soil that is subject to a pending offer for the purpose of protecting topsoil by limiting nonagricultural uses of the land from—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, or 1 or more of the purposes described in clauses (1), (11), and (13) of section 107(h)(4)(A) of the Internal Revenue Code of 1986;
**TITL II—MISCELLANEOUS REFORMS AND EXTENSIONS**

**SEC. 201. PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.**

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended—

(1) by redesignating sections 1244 and 1245 (16 U.S.C. 3844, 3845) as sections 1245 and 1246, respectively; and

(2) by inserting after section 1243 (16 U.S.C. 3843) the following:

"SEC. 1244. REGULATORY AUTHORITY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS."

"(a) Information Received for Technical and Financial Assistance—Except as provided in subsection (c) and notwithstanding any other provision of law, in information provided to, or developed by, the Secretary (including a contractor of the Secretary) for the purpose of providing technical or financial assistance to an owner or operator with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency—"

"(1) shall not be considered to be public information; and

"(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

"(b) Inventory, Monitoring, and Site Specific Information—Except as provided in subsection (c) and notwithstanding any other provision of law, in information provided to, or developed by, the Secretary (including a contractor of the Secretary) for the purpose of providing technical or financial assistance to an owner or operator with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency—"

"(1) shall not be considered to be public information; and

"(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

"(2) DISCLOSURE TO COOPERATING ENTITIES AND AGENCIES—"

"(A) IN GENERAL.—The Secretary may release or disclose information covered by subsection (a) or to a person or Federal, State, local, or tribal agency participating in the conservation program to enforce the natural resources conservation programs referred to in subsection (a).

"(2) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in subparagraph (A) may use the information for the purpose of assisting the Secretary—"

"(1) in providing the requested technical or financial assistance; or

"(ii) collecting information from Natural Resources Inventory data gathering sites.

"(3) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by subsection (b) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of any individual owner, operator, or specific data gathering site.

"(4) CONSENT OF OWNER OR OPERATOR—"

"(A) IN GENERAL.—The owner or operator may consent to the disclosure of information described in subsection (a) or (b).

"(B) CONDITION OF OTHER PROGRAMS.—The participation of the owner or operator in, and the receipt of any benefit by the owner or operator under, this title or any other program administered by the Secretary may be conditioned on the consent of the owner or operator providing consent under this paragraph.

"(5) VIOLATIONS; PENALTIES.—Section 1780(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this section."

**SEC. 202. REFORM AND CONSOLIDATION OF CONSERVATION PROGRAMS.**

"(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan for—"

"(1) consolidating conservation programs administered by the Secretary that are targeted at agricultural land; and

"(2) to the maximum extent practicable—"

"(A) designing forms that are applicable to all such conservation programs; and

"(B) reducing and consolidating paperwork requirements for such programs;

"(C) developing universal classification systems for all information obtained on the forms that can be used by other agencies of the Department of Agriculture;

"(D) ensuring that the information and classification systems developed under this paragraph can be shared with other agencies of the Department through computer technologies used by agencies; and

"(E) developing a common conservation plan that can be applied to all conservation programs targeted at agricultural land.

"(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the plan developed under subsection (a), including any recommendations for implementation of those programs.

"(c) NATIONAL CONSERVATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan and estimated budget for implementing the appraisal of the soil, water, and related resources of the Nation contained in the National Resources Inventory Act of 1977 (16 U.S.C. 3504) as the primary vehicle for managing the continued agricultural use of the agricultural land in the United States.

**SEC. 203. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.**

"The agricultural and domestic allotment Act is amended by inserting after section 15 (16 U.S.C. 590c) the following:

"SEC. 16. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.

"(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish procedures for certifying private persons to provide technical assistance to agricultural producers and landowners participating in conservation programs administered by the Secretary.

"(b) STANDARDS.—The Secretary shall establish standards for the conduct of—"

"(1) the certification process conducted by the Secretary; and

"(2) periodic recertification by the Secretary of private providers.

"(c) CERTIFICATION REQUIRED.—A private provider may not provide technical assistance under any conservation program administered by the Secretary without certification approved by the Secretary.

"(d) FEES.—In exchange for certification, a private provider shall pay a fee to the Secretary in an amount determined by the Secretary.

"(e) PROVIDER.—Except as provided in section 1250(h)(6) of the Food Security Act of 1985 (7 U.S.C. 3839aa–(f)(6)), the Secretary shall determine under what individual cases and conservation programs technical assistance may be provided by private providers or by the Secretary.

"(f) OTHER REQUIREMENTS.—The Secretary may establish other requirements as the Secretary determines are necessary to carry out this section."

**SEC. 204. EXTENSION OF CONSERVATION AUTHORITY.**

"(a) ECARPA AUTHORITY.—Section 1230(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3830(a)(1)) is amended by striking ‘‘2002’’ and inserting ‘‘2011’’.

"(b) CONSERVATION FARM OPTION.—Section 1240M(b)(6) of the Food Security Act of 1985 (7 U.S.C. 3839bb(b)(6)) is amended by striking ‘‘fiscal year 2002’’ and inserting ‘‘each of fiscal years 2002 through 2011’’.

"(c) CROPLAND PROTECTION.—Section 322(e) of the Agricultural Conservation and Trade Act of 1990 (7 U.S.C. 7394(a)) is amended by striking ‘‘2002’’ and inserting ‘‘2011’’.


"(e) FORESTRY.—

"(1) OFFICE OF INTERNATIONAL FORESTRY.—Section 2405(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 7670) is amended by striking ‘‘2002’’ and inserting ‘‘2011’’.

"(2) FORESTRY INCENTIVES PROGRAM.—Section 4(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 3445(f)) is amended by striking ‘‘2002’’ and inserting ‘‘2011’’.

**SEC. 205. TECHNICAL AMENDMENTS.**

"(a) DELINERATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.—

"(1) IN GENERAL.—Section 322(e) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127) is amended by striking ‘‘2002’’ and inserting ‘‘2011’’.

**CONGRESSIONAL RECORD — SENATE**

August 2, 2001
By Mr. MCCAIN (for himself, Mr. LOTT, and Mr. BURNS): S. 1327. A bill to amend title 49, United States Code to provide emergency Secretarial authority to resolve airline labor disputes; to the Committee on Health, Education, Labor, and Pensions.

Madam President, I rise today to introduce the Airline Labor Dispute Resolution Act. This bill would give the Secretary of Transportation the authority to send airline labor disputes to binding arbitration in order to prevent labor actions that might cripple the national air transportation system. The intent of this bill is to fix a collective bargaining process that is not serving the unions, the airlines, or the traveling public. Senators LOTT and BURNS are joining me as original co-sponsors of this legislation.

The Commerce Committee held a hearing in April on the status of labor issues in the airline industry. The hearing made it clear to most everyone that the current process for resolving airline labor disputes is not working. While labor negotiations in the airline industry have been ongoing for years, things have begun to worsen. The trend toward strikes continues, and as unions have skillfully used the existing process to draw out negotiations and leave employees bound for years to the terms of old agreements, as one witness at our hearing testified, airlines use the current procedures to prolong negotiations and avoid accountability at the bargaining table. Employees can become quite frustrated and have reportedly lost faith in the existing system.

Those who seek to maintain the status quo will say that the current collective bargaining process is not perfect but works well enough. They will point out that several significant agreements were reached in the industry this year without any disruption to the airlines that contract disputes will be resolved without disruption to the airline industry.

It is true that several unions and major airlines were able to avoid strikes this year. But that does not mean the process cannot or should not be improved. Air transportation has become an integral part of our economy and society, and each year our dependence upon it grows. If we do not act now to address the flaws in the system, we will pay a very high price in the future when the very threat of a disruption in air service may be devastating.

As I have said before, I have no problems with the labor organizations exercising their legal rights. At the moment, strikes are a permitted action under applicable labor statutes, provided that specific steps have been taken to resolve the dispute. Increasingly, however, courts have found that airline labor unions have illegally resorted to self-help measures. In the past, United, American, Northwest and Delta have been ordered to relieve from these alleged illegal job actions. In American’s case, the court fined American’s pilots over $45 million for not adhering to an injunction.

The unions are not the only ones to blame for the current situation—airline management must shoulder some of the responsibility. Airlines have skillfully used the existing process to draw out negotiations and leave employees bound for years to the terms of old agreements. As one witness at our hearing testified, airlines use the current procedures to prolong negotiations and avoid accountability at the bargaining table. Employees can become quite frustrated and have reportedly lost faith in the existing system. That is no excuse for illegal job actions, but it is another indication that the current process is broken. These matters should be resolved more quickly and with more certainty.

Formal mediation, the last, best offer, and binding arbitration is the one most affected by a job action. By Mr. LANDRIEU: S. 1328. A bill entitled the “Conservation and Reinvestment Act”; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Madam President, today I rise to introduce perhaps the most significant conservation effort ever considered by the Congress.

The Conservation and Reinvestment Act, CARA, is bipartisan landmark legislation that makes a multi-year commitment to conservation programs benefiting all 50 States. It reinvets revenues earned from the depletion of a nonrenewable asset, oil and gas reserves on the Outer Continental Shelf, for the protection and enhancement of our natural and cultural heritage, threatened coastal areas and wildlife. It also reinvets in our local communities and our children through enhanced outdoor recreational opportunities. By enacting CARA, we can ensure that this century begins with the most significant commitment of resources to conservation ever.

During the 106th Congress the House of Representatives passed almost identical legislation by an overwhelming vote of 315 to 102 and the Senate Committee on Energy and Natural Resources reported a version with the support of the Chairman and Ranking Member. In addition, a bipartisan group of 63 Senators sent a letter to Majority Leader LOTT and Minority Leader DASHIELL on September 19, 2000 expressing the urgent need to move CARA to the floor of the Senate for consideration before the adjournment of the 106th Congress. Just last week the
By Mr. JEFFORDS (for himself, Mr. BINGAMAN, Mr. HATCH, Mr. GRASSLEY, Mr. DASCHLE, Mr. DURBIN, Mr. DURBIN, Mr. CHAFEE, and Mr. BOND):

S. 1329. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for private, market-rate sales of land for conservation purposes, and for other purposes; to the Committee on Finance.

Mr. JEFFORDS. Madam President, together with Senators BINGAMAN, HATCH, GRASSLEY, DASCHLE, DURBIN, BOND, and CHAFEE, I am today introducing the Conservation Tax Incentives Act of 2001. This is an incentive for voluntary conservation of environmentally significant land, this bill allows landowners to exclude from income fifty percent of the gain they realize on sales, for conservation purposes, of land or easements in land. This proposal, included in President Bush’s Budget Blueprint, was a central element in his environmental platform during the campaign. It is a sensible, market-oriented tax measure that can help the environment and is supported by a wide range of groups, including the American Farm Bureau, the Association of State Foresters, Defenders of Wildlife, and the Nature Conservancy.

Landowners have a stake in the quality of life of their communities’ environment. They also have a right to reap the economic benefits of their investments in land. Landowners able to make charitable contributions of land for conservation purposes can realize tax benefits that make it possible to achieve both their financial and conservation goals. For many taxpayers, however, in Vermont and elsewhere throughout the Northeast where historic homes in the land represent a major financial asset they cannot afford to donate. Others may not have sufficient income to be able to take full advantage of the tax benefit of a charitable donation. For these landowners, a sale of the land for conservation purposes can be a viable alternative. The way to realize the full economic return on their investment in land. We need new federal tax incentives to help these “land-rich, cash-poor” landowners protect their lands and at the same time achieve their conservation and property rights interests. This bill provides a market-based, voluntary land conservation incentive to help those who own and want to conserve environmentally sensitive land but cannot afford to give it away.

The need for this bill has never been more pressing. We are consuming land at an alarming pace. The pace of land development exceeds by far both the rate of population growth and the rate of land loss to agriculture. In the United States, two acres of farmland per minute, about a million acres per year, are lost to development. Almost one-third of the species in the United States are extinct or under threat of extinction. Loss of open space not only threatens biodiversity, but also quality of life. It increases traffic congestion, and air and water pollution; it decreases opportunities for recreation; and it threatens productive agricultural land. Natural landscapes are made up to complex systems of forests, productive soils, rivers, and other interdependent resources. Deforestation, the paving over of agricultural land, the filling-in of wetlands, and urban sprawl are consuming the landscape and shrinking the balance of wild and human habitat. The sustainability of a healthy quality of life is increasingly in jeopardy.

My bill’s approach to these problems creates new regulatory authority: it requires no appropriations; and it has no new attempts to define conservation. It creates a simple, voluntary incentive for private, market-rate sales of land, or interests in land, to government agencies or qualified non-profit organizations. Incorporating definitions and concepts that already exist in the tax code, this bill provides substantial conservation benefits at a minimal cost—about $900 million over five years as estimated by the Joint Committee on Taxation. Projections show that every year the bill could protect land valued at up to $150 million.

In drafting the bill, we were careful to ensure that landowners are the beneficiaries of this new tax incentive would truly serve conservation purposes. The only qualified purchasers are publicly supported conservation charitable organizations and governmental natural resource and environmental agencies; these entities have long and respected records of serving the public interest in acquiring and managing land for conservation purposes. The bill builds on that record of trust and responsible stewardship without imposing new and cumbersome requirements to ensure that the public interest is served.

In addition, the bill requires a statement by the conservation purchasers memorializing their intent to serve the specified conservation purposes. This requirement ensures that the public’s conservation investment and does not create a tax-driven land use restriction. In essence, we want to make sure that the intention to conserve land does not rob the land of the public value of the land. The landowner must be compensated. The required statement of the purchaser’s intent should not be construed to impose restrictions on the property or covenants running with the land, which might result in an appraisal that could deny sellers the full value of their land. Property should be appraised at its unencumbered, full fair market value. Furthermore, the value of property in the hands of the purchasing conservancy entity should not be less than market value, regardless of the purchaser’s intent of conservation and regardless of the required statement of intent. This principle is important, because it means that a land trust could serve as the original conservation purchaser and subsequently transfer the property to another cooperating conservation purchaser, such as a governmental agency, receiving the full fair market value on the subsequent transfer.

This bill has broad bipartisan support. In the 106th Congress, a majority of the Members of the Senate Finance Committee supported it as an element of the Community Renewal and New Markets Act. It is a modest, bipartisan, innovative proposal that should be a part of this year’s environment and tax agenda, and I urge my colleagues to join me in support.

Mr. BINGAMAN. Madam President, I rise today to join my colleagues, Senators JEFFORDS and HATCH, as an original co-sponsor of the Conservation Tax Incentives Act of 2001. The great conservationist Aldo Leopold once stated, “That land is a community is the basic
concept of ecology, but that land is to be loved and respected is an extension of ethics.” This legislation is in keeping with the conservation ethic so eloquently articulated by Mr. Leopold decades ago.

The bill that we are introducing today will greatly expand the benefits of our existing conservation land easement laws which will have an enormous impact on the preservation of our nation’s forests, prairies, deserts and open space. This legislation will save millions of acres of our nation’s land for future generations by reducing by 50 percent the tax on capital gains that would normally be owned on a sale provided the land or easements are sold to public or private conservation entities for conservation purposes. These types of sales of conservation and preservation organizations will enhance opportunities for recreation, maintain open space, help to retain lands in agricultural production, and preserve important habitat.

Whether it is riparian habitat in New Mexico, mixed grass prairie in the Midwest, open space in California and the foothills of the Rocky Mountains, or woodlands of the Southeast, this legislation would provide enhanced conservation through the voluntary actions of citizens. It would help to address the dramatic loss of farmland acreage to development. It would ensure that important habitat for wildlife is conserved. It would eliminate tax disincentives that keep landowners who wish to see their land preserved from reaching their goal.

This bill will have positive impacts in New Mexico. The legislation will help landowners who wish to ensure that their lands remain in ranching in future decades or who want to preserve other open lands for future generations. The bill would provide a boost to the efforts of state and local government to stretch limited conservation dollars by enhancing the fund of local land conservation organizations to craft voluntary agreements with landowners to conserve lands.

I believe enactment of this legislation would have significant consequences for our nation’s land-use for generations to come, I look forward to working with my colleagues to secure its passage.

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

S. 1330. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Finance.

Mr. HARKIN. Madam President, today I am introducing legislation, the Dietary Supplement Tax Fairness Act, on behalf of myself and my distinguished Senator Hatch. This legislation will make the cost of dietary supplements, medical foods, and foods for special dietary when offered as a health insurance plan tax deductible for employers and excluded from taxable income for employees. Unfortunately, today the tax code provides this sensible tax treatment for these products only if they are prescribed drugs.

Our current policy is unfair and is failing to take full advantage of the potential to improve health and hold down health care costs through preventive health care practices available to consumers. By allowing these healthcare products to improve their health and to stay healthy and would like to be able to have access to these products in the form of an insurance benefit. Insurance companies and employers respond to this consumer demand have been frustrated by being unable to offer a benefit like this in a manner consistent with other health care practices which receive favorable consideration in the Internal Revenue Code. The Ways and Means Committee on Complementary and Alternative Health Policy has consistently heard in testimony of the need for greater insurance coverage of products like the ones in my legislation. Bringing the food into recognition and allow for this important need for wellness and health promotion is an important step forward to overall sound healthcare policy.

I want to emphasize the importance of our legislation places on quality. Consumers need and deserve to know that the products they are buying are of a high quality and consistency. With that in mind, the Dietary Supplement Health and Education Act of 1994 called on the Food and Drug Administration, FDA, to develop and implement Good Manufacturing Practice Standards, GMPs, for dietary supplements. Senator HATCH and I have repeatedly called on the Bush Administration to implement these important consumer protections. After seven years, draft GMPs were published in the Federal Register but have not been finalized. I am hopeful that these final standards will be put in place without further delay. The legislation the Administration requires that dietary supplement and other products meet good manufacturing practice standards in order to receive the improved tax treatment. This will offer a strong incentive to maintain and improve quality.

I urge my colleagues to review this legislation and I hope they will join us in support and join us in our effort to win its passage. I ask unanimous consent that the text of the bill be printed in the Record.

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

S. 1330

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

SECTION 1. SHORT TITLE. This Act shall be known as the “Dietary Supplement Tax Fairness Act of 2001.”

SECTION 2. FINDINGS. The Congress finds that—

(1) the inclusion of foods for special dietary use, dietary supplements, and medical foods in the deduction for medical expenses does not subject such items to regulation as drugs;

(2) the Internal Revenue Code of 1986 treats such items as allowable for the medical expense deduction, but only if such items are prescribed drugs;

(3) such items have been shown through research and historical use to be a valuable benefit to human health, in particular disease prevention and overall wellness, and health, and (4) children with inborn errors of metabolism, metabolic disorders, and autism, and all individuals with diabetes, autoimmune disorders, and chronic inflammatory conditions, frequently require daily dietary interventions as well as medical interventions to manage their conditions and such dietary interventions often become a significant economic burden on such individuals.

SEC. 3. AMOUNTS PAID FOR FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, OR MEDICAL FOODS TREATED AS MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting in subparagraph (B) the following new subparagraph:

“(C) for foods for special dietary use, dietary supplements (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act), and medical foods,”.

(b) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETIC USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Subsection (d) of section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end the following paragraph:

“(12) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETIC USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Amounts paid for insurance covering foods and supplements referred to in paragraph (1)(C) shall be treated as described in paragraph (1)(E) only if such foods and supplements comply with applicable good manufacturing practices prescribed by the Food and Drug Administration or with other comparable standards.”

(c) CONFIRMING AMENDMENTS.—

(1) Subparagraph (E) of section 213(d)(1) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking “(4)” and inserting “(4)”.

(2) The last sentence of section 213(d)(1) of such Code is amended by striking “subparagraph (D)” and inserting “subparagraph (E)”.

(3) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking “(C)” and inserting “(C)”, and “(D)” and (B) by striking paragraph “(1)(D)” in subparagraph (A) and inserting “(1)(E)”.

(4) Paragraph (7) of section 213(d) of such Code is amended by striking “(C)” and inserting “(C)” and “(D)” and Sections 7222(c)(2)(D)(i)(II) and 7702b(a)(4) of such Code are each amended by striking “section 213(d)(1)(D)” and inserting “section 213(d)(1)(E)”.

METICULOUS. The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. TORRICELLI:

S. 1332. A bill to amend the Internal Revenue Code of 1986 to exclude certain
severance payment amounts from income; to the Committee on Finance. 

Mr. TORRICELLI. Madam President, I rise today to introduce a bill that is intended to provide tax relief for people who have lost their jobs due to the current economic slowdown and the fact that many corporations are now forced to downsize their workforces. The number of layoffs this calendar year is approaching an all-time high. There were over 770,000 job cuts during the first six (6) months of the year. U.S. employers cut 197,862 jobs during the month of June. The June figure increased 56 percent from May, 80,140, and marked the sixth time in seven months that job cuts exceeded 100,000. Last month the number was actually 624 percent, over June, 2000 when job cuts totaled just 17,241 which was a three (3) year record low.

I am introducing a bill which will provide tax relief to these displaced workers. This legislation will exclude the $5,000 in severance pay received by people who may be adjusting to an extended period of unemployment in an economy that is no longer bustling. This exclusion is available for any displaced worker whose overall severance payment does not exceed $125,000.

Under present tax law, severance payments are included in gross income. However, severance pay is not intended to be included as part of a worker’s wage. Rather, it is intended to be a supplement to assist them during unemployment. Displaced workers often lose nearly a third of their severance packages to taxes. The lump sums they receive in severance pay drives them up into a higher tax bracket that is not representative of their true income or standard of living.

Corporations are already allowed to write-off the severance packages they provide to laid off employees, yet the workers are often adversely affected. For people in this body has devoted much time and attention this session to determining how to return to American tax payers that which is rightfully theirs. Clearly, these displaced workers deserve what is truly fair tax treatment at a time when they could truly benefit from it.

The economic prosperity of the last decade benefitted most Americans. Unfortunately, many of the industries most adversely affected by the current economic cycle contributed greatly to our unprecedented growth. Therefore, it is inexcusable for our government to disregard the needs of these displaced workers. It is important that our government take steps to help these workers by removing the unfair tax burden that is placed upon them.

By Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. BUMERAN, Mr. KERRY)

S. 1333. A bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Madam President, I rise today to introduce a bill to establish renewable energy targets for electric sales, an electric systems benefit fund, and net metering programs to ensure a clean, sustainable energy future. I am pleased to be joined by Mr. LIEBERMAN, Mr. SCHUMER, Mr. KERRY in introducing the “Renewable Energy and Energy Efficiency Investment Act of 2001”.

This bill will help bring renewable energy sources and energy efficiency technologies from the minds of the American entrepreneur to the fields of the American farmer, to the hills where strong winds blow, and to the roofs of our homes. Investing in and solar, geothermal, wind, and bioenergy, tremendous benefits for the health of our citizens, environment and economy. It is time for our Nation to transition from smokestacks, coal power and smog to a future with windmills, solar power and blue skies.

Our Nation has vast, untapped resources than can power our homes and businesses using the heat of the earth, the brilliance of the sun and the strength of the wind. Unlike the limited fossil fuel resources, these sources of energy are forever replacing themselves. All we have to do is harness them.

Today, renewables are beginning to take hold. Wind power, for example, is the fastest growing form of energy in the world. Worldwide almost 4,000 megawatts of new wind energy capacity were added in the year 2000. Other forms of renewable energy, such as hydroelectric power, solar, and geothermal are poised to make a dramatic impact in the years ahead.

This bill will establish a Renewable Energy and Energy Efficiency Investment Act of 2001 smoothly.

At the same time, we can capture the world market for renewable energy and we can increase our energy security. Most importantly, we can know that our children and grandchildren will thank us for giving them a clean, sustainable energy supply.

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

S. 1333

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Renewable Energy and Energy Efficiency Investment Act of 2001.”

SECTION 2. FINDINGS.

Congress finds that—

(1) the generation of electricity is unique in its combined influence on the security, environmental quality, and economic efficiency of the United States;

(2) the generation and sale of electricity has a direct and profound impact on interstate commerce;

(3) the Federal Government and the States have a joint responsibility for the maintenance of public purpose programs affected by the national electric system;

(4) notwithstanding the public’s interest in and enthusiasm for programs that enhance the environment, encourage the efficient use of resources, and provide for affordable and universal service, the investments in those public purposes by existing means continue to decline;

(5) the dependence of the United States on foreign sources of fossil fuels is contrary to our national security;

(6) alternative, sustainable energy sources must be pursued;

(7) consumers have a right to certain information in order to make objective choices on their electric service providers; and

Third, our bill has a comprehensive disclosure provision, giving consumers honest and verifiable information regarding their energy choices.

Finally, our bill will require the suppliers of electricity to include a minimum amount of renewable energy in the products that they sell. We start with 2.5 percent in the first year and work up to 20 percent by the year 2020. The Union of Concerned Scientists found that this program is achievable and will lead to tremendous reductions in air and water pollutants that turn our blue skies to grey. Energy Information Administration also found that this program would lead to an 18 percent decrease in the amount of carbon dioxide we release compared to the status quo and ease supply pressures on and prices of natural gas. All these benefits come at the same time that we establish our nation as a leader in developing and manufacturing the cutting edge technologies that will not only power our economy, but the economies of countries all over the world.

Our nation’s future depends on having clean, reliable, and sustainable sources of energy. With this bill we can ensure that future becomes a reality. At the same time, we can capture the global market for renewable energy and we can increase our energy security. Most importantly, we can know that our children and grandchildren will thank us for giving them a clean, sustainable energy supply.

I ask that the bill be printed in the RECORD.
(8) not metering of small systems for self-generation of electricity is in the public interest in order to encourage private investment in renewable energy resources, stimulate economic growth, and shall be in a continued diversification of the energy resources used in the United States.

SEC. 3. DEFINITIONS.

In this Act:

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

(2) BIOMASS.—The term “biomass” means—

(A) organic material derived from a plant that is planted exclusively for the purpose of being used to produce electricity; and

(B) nonhazardous, cellulosic or agricultural material that is segregated from other waste materials and is derived from—

(i) a forest-related resource, including—

(I) mill and harvesting residues;

(II) precommercial thinnings;

(III) slash; and

(IV) brush;

(ii) an agricultural resource, including—

(I) orchard tree crops;

(II) vineyards;

(III) grain; legumes;

(V) sugar; and

(VI) other crop by-products or residues;

(iii) miscellaneous waste such as—

(I) waste pallet;

(II) crate;

(III) dunnage; and

(IV) load or right-of-way tree trimmings, but not including—

(aa) municipal solid waste;

(bb) recyclable postconsumer wastepaper;

(cc) painted, treated, or pressurized wood;

(dd) steel contaminated with plastic or metals; or

(ee) tires; and

(iv) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to biological fertilizer, oil, or activated carbon.

(3) BOARD.—The term “Board” means the National Electric System Benefits Board established under section 4.

(4) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(5) FUND.—The term “Fund” means the National Electric System Benefits Fund established under section 6.

(6) LANDFILL GAS.—The term “landfill gas” means gas generated from the decomposition of household solid waste, commercial solid waste, and municipal solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

(7) POLLUTANT.—The term “pollutant” means—

(A) carbon dioxide, mercury nitrous oxide, sulfur oxides, or any other substance that the Administrator identifies by regulation as a substance that, when emitted into the air from a combustion device used in the generation of electricity, endangers public health or welfare (within the meaning of section 302(h) of the Clean Air Act (42 U.S.C. 7602(h));

(B) any substance discharged into water that is regulated under a National Pollutant Discharge Elimination System permit issued under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); and

(C) any substance that is disposed of in a solid or hazardous waste facility that is regulated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) RENEWABLE ENERGY.—The term “renewable energy” means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen that is produced from a renewable energy source.

(9) RENEWABLE ENERGY SOURCE.—The term “renewable energy source” means—

(A) wind;

(B) biomass;

(C) landfill gas; or

(D) a geothermal, solar thermal, or photovoltaic source.

(10) RETAIL ELECTRIC SUPPLIER.—

(A) IN GENERAL.—The term “retail electric supplier” includes—

(i) a regulated utility company (including affiliates or associates of such a company);

(ii) a company that is not affiliated or associated with a regulated utility company; and

(iii) a municipal utility;

(iv) a cooperative utility;

(v) a local government; and

(vi) a special district.

(B) NONAPPLICATION.—The term “Secretary” means the Secretary of Energy.

SEC. 4. NATIONAL ELECTRIC SYSTEM BENEFITS BOARD.

(A) ESTABLISHMENT.—The Secretary shall establish a National Electric System Benefits Board to carry out the functions and responsibilities described in this section.

(b) MEMBERSHIP.—The Board shall be composed of—

(1) 1 representative of the Commission appointed by the Commission;

(2) 2 representatives of the Secretary appointed by the Secretary;

(3) 2 persons nominated by the national organization representing State regulatory agencies appointed by the Secretary;

(4) 1 person nominated by the national organization representing State utility consumer advocates and appointed by the Secretary;

(5) 1 person nominated by the national organization representing State energy offices appointed and appointed by the Secretary.

(c) OFFICERS.—The Board shall elect a Chairperson and a Vice Chairperson from among its members.

(d) TERMS.—Each member of the Board shall serve a term of not more than 3 years, to be extended at the discretion of the Secretary.

SEC. 5. NATIONAL ELECTRIC SYSTEM BENEFITS FUND.

(1) ESTABLISHMENT.—The Board shall establish an account or accounts at 1 or more financial institutions, which account or accounts shall be known as the “National Electric System Benefits Fund”, consisting of amounts deposited in the fund under subsection (c).

(2) STATUS OF FUND.—The wires charges collected under subsection (c) and deposited in the Fund—

(A) shall constitute electric system revenue and shall not constitute funds of the United States;

(B) shall be held in trust by the manager of the Fund solely for the purposes stated in subsection (A); and

(C) shall not be available to meet any obligations of the United States.

(b) USE OF FUND.—

(a) FUNDING OF SYSTEM BENEFIT PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States for the support of State system benefit programs relating to—

(A) renewable energy sources;

(B) assisting low-income households in meeting home energy needs;

(C) energy conservation and efficiency; or

(D) research and development in areas described in subparagraphs (A) through (C).

(b) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall instruct the manager to distribute all amounts in the Fund to States to fund system benefit programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (ii), the Fund share of a system benefit program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States shall be reduced by an amount that is proportionate to the State’s annual generation of electricity compared to the aggregate annual consumption of electricity in the United States.

(iii) ADDITIONAL STATE FUNDING.—A State may apply funds to system benefit programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(iv) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for system benefit programs funded under this section for approval by the Secretary.

(C) APPLICATION.—No later than August 1 of each year, a State seeking matching funds for the following year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible system benefit program;

(B) stating the amount of State funds earmarked for the program; and

(C) summarizing the manner in which amounts from the Fund were used in the State during the previous calendar year.

(d) WIRES CHARGE.—

(1) DETERMINATION OF NEED FOR FUNDING.—Not later than September 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that will be required to be paid into the Fund to pay matching funds to States and the operating costs of the Board in the following year.

(e) WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge to be paid directly into the Fund by the operator of the wire on the amounts carried through the wire in interstate commerce.

(B) MEASUREMENT.—For the purposes of subparagraph (A) the electricity generated in the United States shall be measured as the electricity exits the busbar at a generation facility; and
(ii) electricity generated outside the United States shall be measured at the point of delivery to the system of the wire operator.

(2) AMOUNT OF WIRES CHARGE.—The wires charge shall be set at a rate equal to the lesser of—

(1) 2 mills per kilowatt-hour; or

(ii) an amount that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly to the Fund at the end of each month during the calendar year for distribution by the electric systems benefits manager under section 5.

(4) PAYMENTS TO WIRE CHARGE.—

(A) IN GENERAL.—A State that imposes a wires charge may pay into the Fund some or all of the wires charge imposed under this subsection on behalf of wire operators serving that State.

(B) PAYMENT.—Payments by the State into the Fund under subparagraph (A) shall be applied toward the wires charge imposed under this subsection.

(5) PENALTIES.—The Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(d) AUDITING.—

(A) IN GENERAL.—The Fund shall be audited annually by an independent firm of certified public accountants in accordance with generally accepted auditing standards.

(B) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(e) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary, the Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit; and

(II) a statement of surplus or deficit analysis; and

(iii) a statement of income and expenses; and

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 6. RENEWABLE ENERGY GENERATION STANDARDS.

(a) RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—Not later than April 1 of each year, each retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of electricity sold to consumers during the previous calendar year.

(2) RATE.—The rate charged to each class of consumers by a retail electric supplier shall be an equal percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (b).

(b) NET RESOURCES.—A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (e).

(3) STATE RENEWABLE ENERGY PROGRAM.—

(A) IN GENERAL.—Nothing in this section precludes any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

(B) LIMITATION.—A State may limit the benefit of any State renewable energy program to renewable energy generators located within the boundaries of the State or other boundaries (as determined by the State).

4. STATE WIRE CHARGE.

(A) IN GENERAL.—A State that imposes a wires charge may pay into the Fund some or all of the wires charge.

(B) AUDITING.—The Fund shall be audited annually by an independent firm of certified public accountants in accordance with generally accepted auditing standards.

(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—To meet the requirements under subsection (a)(1), a retail electric supplier may submit to the Secretary—

(1) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier during the calendar year for which renewable energy credits are being submitted or any previous calendar year;

(2) renewable energy credits—

(A) issued under subsection (d) to any renewable energy generator for renewable energy generated during the calendar year for which renewable energy credits are being submitted or a previous calendar year; and

(B) acquired by the retail electric supplier under subsection (e);

(3) issuance of renewable energy credits—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Act, the Secretary shall establish a program to issue, monitor the sale or exchange of, and track renewable energy credits.

(B) APPLICABILITY.—

(A) IN GENERAL.—Under the program established under paragraph (1), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

(B) REQUIREMENTS.—An application under subparagraph (A) shall identify—

(i) the type of renewable energy resource used to produce the electric energy;

(ii) the State in which the electric energy was produced;

(iii) any other information that the Secretary determines appropriate.

(3) NUMBER OF RENEWABLE ENERGY RESOURCE CREDITS.—

(A) IN GENERAL.—The Secretary shall issue to an entity 1 renewable energy credit for each kilowatt-hour of electric energy that the entity generates through the use of a renewable energy resource in any State in calendar year 2001 and each year thereafter.

(B) PENALTY.—If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

(4) ELIGIBILITY.—To be eligible for a renewable energy credit under this subsection, the unit of electricity generated through the use of a renewable energy resource shall be sold or used by the generator.

(5) IDENTIFICATION OF RENEWABLE ENERGY CREDITS.—The Secretary shall identify renewable energy credits by—

(A) the type of generation; and

(B) the State in which the generating facility applying for renewable energy credits under this section.

(d) AUDITING.

(4) STATE RENEWABLE ENERGY PROGRAM.

(A) IN GENERAL.—Nothing in this section precludes any State from requiring additional renewable energy credits based on the proportion of the renewable energy program conducted by the State.

(B) LIMITATION.—A State may limit the benefit of any State renewable energy program to renewable energy generators located within the boundaries of the State or other boundaries (as determined by the State).

5. PENALTIES.

The Secretary may as

(A) IN GENERAL.—To receive a renewable energy credit, the entity shall pay a fee, calculated by the Secretary, in an amount that is equal to the lesser of—

(i) the administrative costs of issuing, recording, monitoring the sale of exchange of, and tracking the renewable energy credit; or

(ii) 5 percent of the national average market value (as determined by the Secretary) of that quantity of renewable energy credits.

(B) DELINQUENCY.—The Secretary shall use the fee to pay the administrative costs described in subparagraph (A)(i).

(e) SALE OR EXCHANGE.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit.

(f) VERIFICATION.—The Secretary may request the information necessary to verify and audit—

(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

(3) the amount of electricity sales of all retail electric suppliers.

(g) ENFORCEMENT.

(1) IN GENERAL.—The Secretary may bring an action in United States district court to impose a civil penalty on a retail electric supplier that fails to comply with subsection (a).

(2) AMOUNT OF PENALTY.—A retail electric supplier that fails to submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than 3 times the estimated national average market value (as determined by the Secretary) of that quantity of renewable energy credits for the calendar year concerned.

SEC. 7. NET METERING.

(a) DEFINITIONS.—In this section:

(1) CUSTOMER-GENERATOR.—The term “customer-generator” means a retail electric customer that generates electricity measured by a net metering system.

(2) ELECTRIC COMPANY.—The term “electric company” means a company that is engaged in the business of distributing electricity to retail electric customers.

(b) INCLUSIONS.—The term “electric company” includes an investor-owned utility, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility.

(c) NET METERING.—The term “net metering” means the measuring of the difference between—
(A) the quantity of electricity supplied by an electric company to a customer-generator during a billing period; and
(B) the quantity of electricity generated by a customer-generator and fed back to the electric company by a net metering system during the billing period.

(4) Net Metering System.—The term “net metering system” means a facility for generation of electricity that—
(A) is of not more than 100 kilowatt capacity;
(B) is interconnected and operates in parallel with the transmission and distribution system of an electric company;
(C) is used primarily to offset some or all of the electricity requirements of a customer-generator;
(D) is located on the premises of a customer-generator; and
(E) employs a renewable energy source.

(5) Customer-Generator.—An electric company shall allow a retail electric customer to interconnect and employ a net metering system using—
(1) a kilowatt-hour meter capable of registering the flow of electricity in 2 directions; or
(2) another type of comparably equipped meter that would otherwise be applicable to the customer’s usage but for the use of net metering.

(c) Net Metering Accounting.—
(1) In General.—Electric energy measurements for an electric metering system shall be calculated in accordance with this subsection.

(2) Rates and Charges.—An electric company shall charge a customer-generator rates and charges that are identical to those that would be charged other retail electric customers of the electric company in the same rate class, and

(3) Measurement.—An electric company that supplies electricity to a customer-generator shall measure the quantity of electricity produced by the customer-generator and the quantity of electricity consumed by the customer-generator during a billing period in accordance with normal metering practices.

(5) Electricity Supplied Exceeding Electricity Generated.—If the quantity of electricity supplied by an electric company during a billing period exceeds the quantity of electricity consumed by the customer-generator and fed back to the electric distribution system during the billing period, the electric company may bill the customer-generator for the net quantity of electricity supplied by the electric company, in accordance with normal metering practices.

(5) Electricity Generated Exceeding Electric Supply Electric.—If the quantity of electricity generated by a customer-generator during a billing period exceeds the quantity of electricity supplied by the electric company during the billing period—
(A) the electric company may bill the customer-generator for the appropriate charges for the billing period in accordance with paragraph (1); and
(B) the customer-generator shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

(6) Unused Credits.—At the beginning of each calendar year, any unused kilowatt-hour credits accumulated by a customer-generator during the previous calendar year shall expire without compensation to the customer-generator.

(d) Safety.—

(1) Requirements.—

SEC. 9. DISCLOSURE REQUIREMENTS.

(a) Definitions.—In this section:

(1) Emissions Data.—The term “emissions data” means the type of fuel (such as coal, oil, nuclear energy, or solar power) used by a generation facility to generate electricity.

(2) Generation Data.—The term “generation data” means the type and amount of each pollutant emitted or released by a generation facility in generating electricity.

(3) Additional Meters.—An electric company may, at its own expense and with the written consent of a customer-generator, install 1 or more additional meters to monitor the flow of electricity in both directions.

(b) Disclosure System.—The Secretary shall establish a system of disclosure that—

(1) enables retail consumers to knowledgeably compare service offerings, including comparisons based on generation source portfolios, emissions data, and price terms; and

(2) considers such factors as—

(A) cost of implementation;

(B) confidentiality of information; and

(C) flexibility.

(c) Regulation.—Not later than March 1, 2002, the Secretary, in consultation with the Board, and with the assistance of a Federal interagency task force that includes representatives of the Federal Trade Commission, the Food and Drug Administration, and the Environmental Protection Agency, shall promulgate a regulation prescribing—

(1) the form, content, and frequency of disclosure of emissions data and generation data of electricity by generation facilities that electricity wholesalers or retail companies and by wholesalers to retail companies;

(2) the form, content, and frequency of disclosure of emission data, and the price of electricity by retail companies to ultimate consumers; and

(3) the form, content, and frequency of disclosure of emission data, and the price of electricity by generation facilities selling directly to ultimate consumers.

(d) Access to Records.—The Secretary shall have full access to the records of all generation facilities, electricity wholesalers, and retail companies to obtain any information necessary to administer and enforce this section.

(e) Failure To Disclose.—The failure of a retail company to accurately disclose information as required by this section shall be treated as a deceptive act in commerce under section 5 of the Federal Trade Commission Act.

(f) Regulations.—The Secretary may promulgate such regulations, conduct such investiga-
average, only 51 percent. I raised a question about this and expressed my concern to the Secretary of the Army and Chief of Staff of the Army at a recent Senate Armed Services Committee hearing.

The legislation I am introducing today requires annual increases in the numbers of full time active-duty officers and military technicians in the Army National Guard—734 AGRs and 467 military technicians each year for the next 11 years. The legislation is based on a plan drawn up, cooperatively, by the Active Army and the Army National Guard. When fully implemented, the increases contained in the legislation will raise the Guard’s ‘fill rate’ from current units to carry out 50 percent of valid personnel requirements, to a level of 71 percent—an acceptable level within current force structure and readiness planning parameters.

AGRs and Military Technicians are critically important force multipliers for Army National Guard units. They directly impact training, command and control, technical, functional, and military missions required to effectively train, administer, and prepare ready units and equipment for transition from peacetime to a wartime posture. AGRs and Military Technicians perform functions vital for meeting supply, training, and maintenance requirements of the Army National Guard units.

The increases in authorized end strengths set forth in this legislation are essential because of the increased reliance on Guard units to carry out Army missions. Each Army National Guard division has been assigned rotational duty in Bosnia-Herzegovina with the Stabilization Force, SFOR, missions in Bosnia-Herzegovina. The 29th Infantry Division, Light, of the Virginia National Guard is now fully engaged in executing its phased deployment to Bosnia and will be in place in October of this year. I applaud the Army for its ongoing efforts to integrate the Guard in its operational planning. The Guard needs these soldiers in place in their full time support roles to ensure its success.

I know that Army leaders must make difficult decisions each year based on changing priorities and requirements and that the President must do the same in his annual budget submission. I am convinced, however, that the increases in end strength prescribed in this legislation are necessary and must be assigned the highest priority.

By Mr. KENNEDY (for himself, Mr. DEWINE, Mr. DASCHLE, Ms. SNOWE, Mr. DURBIN, Mr. CORZINE, Ms. STABENOW, Mr. BAUCUS, Mr. BINGAMAN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. JOHNSON, and Mr. CONRAD): S. 1335. A bill to support business incubation in academic settings; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY, Madam President, it is a privilege to join my colleagues in introducing the LEADERS Act—the Linking Educators And Developing Entrepreneurs for Reaching Success Act.

Our bipartisan goal is to bring together colleges and universities in an innovative institution-to-institution effort to encourage small businesses. These innovative centers can have a significant role in the modern economy, and provide needed cutting-edge educational and entrepreneurial opportunities for students. I commend Senator DEWINE for his leadership in developing this bipartisan legislation, and for his continuing leadership on economic and education issues. We are convinced that college-affiliated business incubators can be effective tools in improving education and the economy, and this legislation is designed to encourage them.

A business incubator facilitates economic development by providing specific resources and services to entrepreneurial, start-up companies. This assistance often includes office space at discounted rent, access to telephone and Internet services, consulting opportunities, and access to appropriate technical assistance. The goal of such business incubators is to produce successful firms that will be successful in the long run through modest and timely start-up assistance.

Business incubators can have an important role in strengthening and sustaining local economies. Several studies have shown that incubated businesses tend to survive longer, create more jobs, and be more successful than their communities, and provide worthwhile benefits to their employees.

One of the best ways to encourage entrepreneurship is to enhance the role of colleges and universities in developing new ideas into sustainable businesses that prosper, remain in their communities, and provide good jobs and good benefits to local workers in the cities and towns that need them most. Business incubators will benefit colleges and universities because they can provide students with real-life examples of emerging businesses and case studies to enhance their educational experience.

Our legislation creates a program in the Department of Education to support academic-affiliated business incubators. A $20 million fund will offer competitive grants to acquire or renovate space, develop curricula and training for business owners or managers, and conduct feasibility studies for developing and locating incubators.

Eligible applicants will include nonprofit organizations that have an affiliation with a college or university and that manage an incubator. Priority is given to incubators in economically distressed areas, to applications which provide strong educational opportunities in entrepreneurship, and to applications which emphasize cooperation by businesses, academic institutions, local economic leaders, and local government officials.

Small business entrepreneurs have an outstanding track record of products that improve and often save lives. Today these entrepreneurs take advantage of innovative ideas and turn them into jobs and economic growth. Entrepreneurs can benefit immensely from contacts with academic institutions, and Congress should encourage those contacts.

Colleges and universities often have well-equipped laboratories, good computer systems, and access to expertise. They can be a source of ideas that spur business creation. Colleges and universities can also provide the skills and experience of a dedicated faculty, and the enthusiasm and potential of today’s students.

Current studies show that nearly seven out of ten teenagers want to control their own destinies by becoming entrepreneurs. Six in ten young women, seven in ten Hispanic youth, and nearly eight out of ten African American youth are interested in starting a business of their own. But too many of these young men and women say they know little about how to start their own business. A large majority are taught little about how business or the economy works.

Students who benefit from such instruction start more new business, develop more new products, and are more likely to be involved in high-technology initiatives than their peers. Most entrepreneurs say that they ‘learned by doing’—through hands-on access to mentors and similar opportunities. Our legislation will provide access to real-world examples of entrepreneurship and business development, and help lay a stronger foundation for growing and thriving firms.

More and more, academic institutions across the country recognize this opportunity. They are working in partnerships to encourage small businesses.

Other incubators are reaching out to colleges and universities. The Commonwealth Corporation, a leader in workforce training in Massachusetts, has established an incubator and is actively pursuing ties in Boston with The University of Massachusetts.

Increasingly today, business leaders are recognizing the advantages of affiliations with institutions of higher learning, and academic leaders are welcoming the idea of including entrepreneurial projects in their curricula. In many cases, faculty members themselves are launching incubators.

It makes sense for Congress to support these constructive partnerships. The LEADERS Act can make a worthwhile contribution to this growing movement, and I look forward to early action by the Senate to approve it.

Mr. DEWINE, Madam President, I rise today, along with my good friend, Senator KENNEDY, to introduce the ‘Linking Educators And Developing Entrepreneurs for Reaching Success
Act of 2001” (LEADERS Act). This bipartisan measure will help foster business development by strengthening academic affiliated business incubators.

Our Nation’s ability to expand economic development hinges on new business growth. Small businesses provide 75 percent of the new jobs in this country, and in 1999, the number of new employer firms outnumbered the amount of business closures. Though our American entrepreneurial spirit is alive and well, A number of businesses fail and, after four years, the failure rate climbs to more than 60 percent.

That’s why business incubation is so important. These incubators are centers designed to accelerate the successful development of new companies. They offer an array of business support resources. Most of the incubators provide their clients with access to appropriate rental space and flexible leases, shared services and equipment, technology support services, and assistance in obtaining financing for growth. They also provide a range of services like management guidance, technical assistance, and consulting. Such support an incubation increases the chance of small business survival to about 86 percent.

Our LEADERS Act authorizes the Secretary of Education to provide competitive grants to nonprofit organizations that manage incubators and are affiliated with academic institutions. These grants can be used to acquire or renovate space for an incubator or to support curriculums developed by businesses, faculty, entrepreneurs, and local leaders. The Secretary also can award a grant to help fund feasibility studies to help colleges or local development officials determine the viability of an incubator in their respective communities.

The Act would authorize $20 million for grants in each of the next three fiscal years. The nonprofit organizations that receive funding under the bill would be required to match federal contributions dollar for dollar, and their proposals must have the support of local community leaders. Many of the non-profit incubators included in the Act are integral part of the business incubation process. Academic affiliated incubators provide unique educational opportunities for students and entrepreneurs. This is accomplished with enhanced access to a skilled workforce and a wealth of resources. Ohio is the home of one of the oldest university-based business incubators, the Ohio University Innovation Center, which was established in 1982. Since 1987, the Center has created 625 jobs, including 125 high-technology positions. A number of important institutions in Ohio, such as The Ohio State University, Bowling Green State University, Case Western Reserve University, Franklin University, John Carroll University, University of Cincinnati, and University of Dayton operate business incubators.

The goal of the incubator is simple: to produce successful, financially viable firms. Art studies show that business incubation works. Almost 87 percent of incubated companies remain in operation, with roughly 84 percent of them remaining in their home communities. It is vital that we give small businesses the necessary tools to stay afloat. Art incubation will help to foster the next generation of successful entrepreneurs and ultimately further bolster the stability of our economy.

I urge my colleagues to support this legislation and our efforts to help America’s entrepreneurs.

By Ms. CANTWELL:
S. 1337. A bill to provide for national digital schools.

Ms. CANTWELL. Madam President, I rise today to introduce the National Digital School District Act, a bill that embraces the role technology can have as a tool in educating our nation’s children.

Just as technology has brought innovation and efficiency to our daily lives and our businesses, technology has already demonstrated its enormous potential to enhance the educational demands of the changing economy. Across the country, we have seen how proper uses of technology can transform a conventional curriculum into a multi-media, interactive experience that not only helps children learn more effectively, but does so in a way that is enjoyable and fosters a student’s passion for learning.

In numerous recent studies, including those done by the Department of Education, the White House Office on Science and Technology and the RAND Corporation, researchers have found that technology has a very positive impact on serving the goals of education in important ways, including:


2. Increased motivation and self-esteem—studies have found that one of the most common effects of technology on students was an increase in the motivation of students who experience education in new and enjoyable ways.

3. Preparing students for the workplace—just as higher education and the workplace are increasingly becoming infused with technology, technology is a crucial component of student preparation, and the potential impact of technology on education is no secret. In fact, schools have dramatically increased their focus on putting technology in the classroom. Both the public and private sector have been diligently wiring school buildings and putting computers in many classrooms, making access to computers and the Internet increasingly commonplace.

As the old saying goes, you can lead a horse to water, but you can’t make it drink. The same is true for children, just putting technology into a school does not ensure that teachers know how to use it or children are able to learn from it.

Unless technology is properly integrated into curriculum, the students will not realize the benefits of having the access. Without teachers who know how to use computers to teach the kids, the kids will not benefit.

In addition to computers and access, we need to assure teacher training and curriculum development. This legislation is a good first step toward fixing this problem, in effect, bridging the technology and teaching divide.

To accomplish this goal, our bill takes two tracks, first, the legislation establishes a grant program in which the state and federal government share the responsibility to create model programs to team technology with curriculum and teacher training—to develop comprehensive approaches to using technology in education.

Second, to help identify best practices, the legislation will also require a study to evaluate and highlight which of these strategies work and which do not work in bringing technology to the classroom.

Schools across the country are being given the tool of technology. Indeed, the total annual investment in education technology is currently almost $5 billion per year.

According to a recently released study by NetDay, although 97 percent of teachers have some type of access to computers in their schools, only 32 percent of teachers say they use technology in their classroom.

Teachers around the country are finding ways to enhance the classroom experience by teaching conventional topics with technological tools. Schools and businesses in my home State of Washington are leaders in these areas.

For example, in rural agricultural Eastern Washington, Diane Peterson wanted to improve her Waterville Elementary 4th and 5th graders’ success with math, science, reading, and writing. She found that University of Washington scientists needed data gathered on local vegetation and weather—she put those facts together and came up with a plan. Students were able to use 3-mail and shared web sites to write, organize and present a useful study to the Western Washington scientists. The students are learning math and science skills through real-world experience, possible outcome through the use of Internet. And helping science to boot.

Also, administrators in districts around the countries are increasingly
lead the way in identifying best practices for the use of technology by assessing and evaluating the effectiveness of these strategies.

Teachers, administrators, private sector organizations, and non-profit groups are developing innovative approaches to bring technology into the classroom. The district has found that having a person who can educate teachers and help them make the most of the technology available to them can make the difference between technology as an educational tool or as a waste of money.

The Bill and Melinda Gates foundations have been leaders in improving education through the use of technology. For example, in Washington State, the Foundation had created the $45 million “Teacher Leadership Project,” a grant program to provide leadership development for 1,000 K-12 teachers a year, over three years. Participants receive in-depth training, as well as hardware and software to create a technology-rich learning environment. Teachers attend workshops and seminars, participate in e-mail discussions, keep records of the experiences, and assist with assessment and evaluation. Clearly, assessment and evaluation are critical to the future application for this program. This program is an excellent model to bring technology into the classroom.

These programs show that when used effectively, technology can enhance learning.

But to fully employ technology as an educational tool across the country we must develop programs that take into account the real needs for education and that can be scaled for implementation by any school or district.

Successful strategies are those that not only install computers, but also integrate these resources in three crucial ways:

1. Teacher Training and professional development—We must teach the teachers so they can use technology to teach the children.

2. Curriculum development—Technology isn’t helpful unless it is incorporated into lesson plans.

3. Resource allocation—In order to be successful, a program should match the technology needs to the goals of the program.

The National Digital School District Act addresses these important elements of technology in education by requiring that local and state agencies incorporate these criteria into their education plans.

Through these requirements, the National Digital School District Act will encourage the development of best practices for the use of technology in schools; practices that can be scaled up in state and local districts around the country.

Additionally, this legislation will ensure that the Department of Education that understanding the events of our past helps us to understand the kind of people we are. A necessary part of this honoring is attempting to preserve the appearance of the places where these battles occurred as the combatants would have experienced them and to place these locations in time as much as possible.

Today, I am proud to offer a bill that will continue to protect the sanctity of one such place: the Little Bighorn Battlefield National Monument in southeastern Montana, which Gen. George Armstrong Custer and the U.S. Seventh Cavalry were defeated by a united force of Northern Cheyenne, Arapaho and Lakota Indians, in 1876.

Anyone who has stood on that same hill recently can also tell you that beyond the trees are the telltale signs of commitment creeping up on the borders of the Monument. For years the site was protected by its sheer isolation. That is no longer the case. The actual battle occurred across a wide area, and only a very small part of it is protected by inclusion in the Monument. Other historically important sites nearby have already been overrun by development. Hills have been graded and geographical features have been altered. Action must be taken quickly if we are to preserve the Monument looking as it did over a century ago.

The bill I am introducing proposes a way for additional lands to be protected by the Monument. This bill does this by establishing a Committee composed of all interested parties, both those with current interests and those with historical interests in this piece of land, which will keep a registry of important sites that might be taken into the Monument. It is my belief that through a consultative process and cooperation, all interests can be accommodated. I have used this inclusory process before with the research and protection of the Sand Creek National Historic Site in Colorado.

In the 102nd Congress, while serving as a member of the House, I introduced the bill that changed the name of this monument from the Custer Battlefield National Monument to the Little Bighorn National Monument, to recognize that there were hero’s on both sides of this conflict: not only Custer, but also Sitting Bull and Crazy Horse and thousands of other warriors.

I wanted to reclaim the memory of that day for Indian people and to make clear that the tragedy of June 26, 1876, was just one small part of a much larger tragedy: the near destruction of a people and the ending of a way of life.
The Indian victory at the Little Bighorn that day was only a brief pause in the march of history. It was the beginning of the end. One week later the United States marked its first centennial, only one hundred years of existence.

The winds places like the Little Bighorn Battlefield, just as we need places like Bunker Hill and Gettysburg and Omaha Beach, locations made special by the extraordinary events that occurred there. We need to keep the site safe and dedicated to the belief that some things are worthy of laying down your life. They are, in the fullest sense of the word, monuments: reminders of what is important.

The Little Bighorn Battlefield National Monument is such a place. I ask this Congress to join me in ensuring that this Monument remain a special place for generations to come. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1383

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Little Bighorn Battlefield National Monument Enhancement Act of 2001”.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) The following events were key in the creation of the Little Bighorn Battlefield National Monument:

(A) On June 25 and 26, 1876, a historic battle between the United States Seventh Cavalry, led by General George Armstrong Custer, and an opposing force of Arapaho, Northern Cheyenne, and Lakota Indians, was fought near the Little Bighorn River in southern Montana.

(B) On August 1, 1879, the battlefield was officially recognized and designated as a national cemetery under General Order No. 78, Headquarters of the Army.

(C) On December 7, 1886, Executive Order No. 33744 established the boundary, approximately one mile square, for the National Cemetery of Custer’s Battlefield Reservation.

(D) On April 14, 1926, the Reno-Benteen Battlefield was acquired by an Act of Congress (46 Stat. 168), and the Army was ordered to take charge of the site.

(E) On April 15, 1930, by an Act of Congress (46 Stat. 168), all rights, titles and privileges of the Crow tribe, from whose reservation the battlefield site was carved, were granted to the United States.

(F) On August 10, 1939, a public historical museum was authorized (53 Stat. 1337).

(G) On June 3, 1940, Executive Order No. 83743 established the boundary, approximately one mile square, for the National Cemetery of Custer’s Battlefield Reservation.

(H) On March 22, 1946, by an Act of Congress (Public Law 79–332) the area was redesignated, Custer Battlefield National Monument.

(I) On January 3, 1991, by an Act of Congress (Public Law 102–201), Custer Battlefield National Monument was redesignated as Little Bighorn National Monument (referred to in this Act as the “Monument”), and an Indian memorial was authorized.

(2) The current total size of the Monument is 786.34 acres. This includes the areas immediately surrounding the cemetery and a separate area, the Reno-Benteen Battlefield, a few miles from there. The reservation sites of historical interest related to the 1876 battle that are not contained within the boundaries of the Monument as it is presently constituted.

(3) The United States has a tradition of preserving the sites of historic battles, in the conviction that such ground is hallowed by the sacrifice of lives in conflict, and in the hope that understanding the events of our past, especially tragic events, helps us to understand the people we have become. In this process of preserving and honoring is attempting, as much as is possible, to maintain the appearance of the places where these struggles occurred as the participants would have experienced them.

(4) The area surrounding the Monument has seen markedly increased commercial development in recent years. Such development not only threatens to intrude on the experience of visitors to the Monument, but in many instances the development has actually taken historical and cultural importance, irrevocably altering physical features of the landscape that are crucial for understanding what took place at the Battle of Little Bighorn.

(5) It is in the interest of the United States to preserve the integrity of the site of the Battle of the Little Bighorn, an event of lasting significance for the United States and for the sovereign Indian nations. In order to preserve this historical treasure, it is imperative that additional lands surrounding the Monument be set aside and given protected status or be made part of the Monument itself.

(6) All areas of the Monument, as well as the other area of historical interest, are completely contained within the external boundaries of the Crow Indian Reservation.

(7) There is every indication that additional land and facilities are available for inclusion in the Monument through either voluntary conveyance or by gift or donation from private individuals and entities.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a cooperative and collaborative process for expanding and enhancing the Monument;

(2) to ensure that the process established by this Act reflects the social, historical and cultural concerns of the Indian tribes participating therein, and other voluntary conveyance for inclusion in the Monument for no or nominal consideration; or

(3) in the case of a positive recommendation under subparagraph (A), provide advise to the Secretary on—

(A) whether the land or facility involved may be available for no or nominal consideration or under what terms and conditions the owner of such land or facility would be willing to transfer such land or facility for inclusion in the Monument for no or nominal consideration; or

(B) whether committee recommends the use of the Fund established under section 5 to acquire such land or facility.

SEC. 3. LITTLE BIGHORN BATTLFELD NATIONAL MONUMENT ENHANCEMENT COMMITTEE.

(a) IN GENERAL.—There is established a Committee to be known as the “Little Bighorn Battlefield National Monument Enhancement Committee” (referred to in this section as the “Committee”).

(b) COMPOSITION.—The Committee shall be composed of—

(1) 1 member appointed by the Secretary of Interior to represent the Department of Interior;

(2) 2 members appointed by the Secretary of Interior to represent the Native American tribes who participated in the Battle of Little Bighorn; and

(3) 1 member appointed by the Crow Indian tribe.

(c) ADMINISTRATIVE PROVISIONS.—

(1) QUORUM; MEETINGS.—Three members of the Committee shall constitute a quorum. The Committee shall act and provide advise by affirmative vote of a majority of the members voting at a meeting at which a quorum is present. The Committee shall meet on a regular basis. Notice of meetings and the agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the Monument. Committee meetings shall be held at locations and in manner as to ensure adequate public involvement.

(2) ADVISORY FUNCTIONS.—The Committee shall advise the Secretary to ensure that the Monument, its resources and landscape, is sensitive to the history being portrayed and artistically commendable.

(3) TECHNICAL SUPPORT.—In order to provide staff support and technical services to assist the Committee in carrying out its duties under this Act, upon the request of the Committee, the Secretary of the Interior is authorized to detail Federal employees of the National Park Service to the Committee.

(4) COMPENSATION.—Members of the Committee shall serve without compensation but shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(5) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to the Committee.

(6) DUTIES.—The Committee shall—

(a) maintain a registry of facilities and lands which may be offered by private individuals or entities by gift, sale, transfer, or other voluntary conveyance for inclusion in the Monument;

(b) by a majority vote determine whether some or all of a parcel of land or facility listed on the registry under paragraph (1) is appropriate for inclusion as a part of the Monument; and

(c) in the case of a positive recommendation under subparagraph (A), provide advise to the Secretary on—

(A) whether the land or facility involved may be available for no or nominal consideration or under what terms and conditions the owner of such land or facility would be willing to transfer such land or facility for inclusion in the Monument for no or nominal consideration;

(B) whether the Committee recommends the use of the Fund established under section 5 to acquire such land or facility.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit or impair the jurisdiction or authority of the Crow Indian tribe.

SEC. 5. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States a fund to be known as the “Little Bighorn Battlefield National Monument Enhancement Fund”. The Fund shall be used as provided for in section 3(d)(5)(B) and shall include—

(1) all amounts appropriated to the Fund; and

(2) all amounts donated to the Fund.

By Mr. CAMPBELL:

S. 1389. A bill to amend the Bring Them Home Alive Act to provide for the burial of the remains of American Gulf War POWs and MIA's, and for other purposes; to the Committee on the Judiciary.
Mr. CAMPBELL. Madam President, I am pleased to introduce the “Persian Gulf War POW/MIA Accountability Act of 2001.” This bill will help persuade foreign Nations and their inhabitants to take necessary and sometimes risky steps to locate any surviving American POW/MIA’s from the Persian Gulf War by providing asylum to those foreign nationals who cooperate.

This bill builds on S. 944, the Bring Them Home Alive Act of 2000, which I introduced in the 106th Congress. This legislation was signed into law last November. As many of you know, this law provides for the granting of refugee status in the United States to nationals of certain foreign countries in which American Veterans from the Persian Gulf War, American Korean War POW/MIA’s may be present.

On January 17, 1991, Lieutenant Commander Michael Speicher’s F-18 was shot down over Western Iraq during the first hours of the Persian Gulf War. Based on the accounts of other pilots flying in the mission and 12 hours of radio silence, Lieutenant Commander Speicher was declared Missing in Action, or MIA, on that day. On May 22, 1991, his status was changed to Killed in Action/Body Not Recovered, KIA/BNR.

In December 1995, investigators from the Army and Navy found the crash site of Lieutenant Commander Speicher’s F-18. Located at the crash site were used flares and parts of a survival kit. Near the site, the canopy of the plane was found which would indicate that Lieutenant Commander Speicher ejected from his plane before it crashed. Based on this and other information, the Navy came to the conclusion that they could no longer assume that Lieutenant Commander Speicher was indeed KIA. On January 11, 1996, the Navy changed his official status from KIA/BNR back to MIA.

News reports indicated one of the major breaks in this case was provided by an anonymous source. According to this information, during the first days of the war, he drove a downed American pilot to Baghdad. The pilot was alive and alert. This defector was able to pass two lie detector tests and pointed to Lieutenant Commander Speicher in a photo lineup. Under this legislation, if Lieutenant Commander Speicher was found alive and returned home, this defector and his family would be granted refugee status in the United States. As a Veteran and a proud American, I will not rest until we have exhausted every avenue available to repatriate the brave men and women who have sacrificed so much for the freedom we enjoy. This legislation provides the kinds of incentives we need to help bring American POW/MIA’s home alive.

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

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

S. 1339

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Persian Gulf War POW/MIA Accountability Act of 2001”.

SEC. 2. AMERICAN PERSIAN GULF WAR POW/MIA FORGOTTEN—

(a) ASYLUM PROGRAM.—The Bring Them Home Alive Act of 2000 (Public Law 106–484; 114 Stat. 2195; 8 U.S.C. 1157 note) is amended by inserting after section 3 the following new section:—

SEC. 3A. AMERICAN PERSIAN GULF WAR POW/ MIA FORGOTTEN.—

(A) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien who—

(A) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

(B) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN PERSIAN GULF WAR POW/ MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘American Persian Gulf War POW/MIA’ means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of title 37, United States Code) or missing person whose status has been determined by the International Broadcasting Bureau to broadcast information—

(ii) who is an employee (as defined in section 552(c) of title 5, United States Code) in a missing status (as defined in section 551(2) of title 37, United States Code) and is missing by the Attorney General in consultation with the Secretary of State; or

(2) MISSING STATUS.—The term ‘missing status’, with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or any successor conflict, operation, or action.

(3) PERSIAN GULF WAR.—The term ‘Persian Gulf War’ means the period beginning on August 2, 1990, and ending on the date therefor prescribed by Presidential proclamation or law.

(b) BROADCASTING INFORMATION.—Section 4(a)(2) of that Act is amended—

(1) by striking “and” at the end of subparagraph (A); and

(2) by striking the period at the end of subparagraph (B) and inserting “; and”;

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

(4) Iraq, Kuwait, or any other country of the Greater Middle East Region (as deter-
This bill is the next step in completing the work we began last Congress by establishing uniform federal Indian probate rules. I ask unanimous consent that the text of the bill printed in the Record.

The Energy Independence and Security Act of 2007 created a national energy strategy to reduce pollution and to establish a new national energy policy. This act included a provision allowing for the establishment of a national energy strategy to reduce pollution and to establish a new national energy policy.

SEC. 31. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, $500,000,000 for each of the fiscal years 2008 through 2017, to carry out this section.

SEC. 32. REPORT.

The President shall transmit to Congress a report on the implementation of the Energy Independence and Security Act of 2007, including a comprehensive analysis of the bill's impact on energy policy and the economy.
“(C) it appears from the will or other evidence that the will was made in contemplation of the testator’s marriage to the surviving spouse;”

(E) the testator provided for the spouse by a bequest or devise or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator’s statements or is reasonably inferred from the amount of the transfer or other evidence.

(2) CHILDREN.—For purposes of this section, if a testator executed his or her will prior to the birth of one or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, such children shall share in the decedent’s intestate interests in trust or restricted lands as if the decedent had died intestate.

(e) Divorce.—

(1) SURVIVING SPOUSE.—

(A) IN GENERAL.—For purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, such individual is married to the decedent at the time of death.

(2) RULL OF CONSTRUCTION.—Nothing in paragraph (A) and inserting the following:

(i) IN GENERAL.—Paragraph and inserting the following:

(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent or limit the right of an owner of land to which such clause applies to mortgage such land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law; and

(iii) by striking paragraph (A) and inserting paragraph (B), by striking “207(a)(6)(B)” and inserting “207(a)(6)(B)”.

(iii) by striking “207(a)(6)(B)” and inserting “207(a)(6)(B)”.

(3) in section 207 (25 U.S.C. 2260)

(A) in subsection (a)(6), by striking sub-

(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent or limit the right of an owner of land to which such clause applies to mortgage such land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law; and

(i) by striking “207(a)(6)(B)” and inserting “207(a)(6)(B)”.

(ii) by striking “207(a)(6)(B)” and inserting “207(a)(6)(B)”.

(iii) by striking “207(a)(6)(B)” and inserting “207(a)(6)(B)”.

(iv) by inserting after section 202, the following:

(A) DEVISE TO OTHERS.—

(i) IN GENERAL.—Notwithstanding paragraph (2), an owner oftrust or restricted land

(ii) who does not have an Indian spouse or an Indian lineal descendant may devise his or her interests in such land to his or her spouse, lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree;

(iii) rules of construction.—Any devise of an interest in trust or restricted land under subsection (a) that is not part of a family farm shall be deemed to be a gratuitous devise for the benefit of a member of the family of the decedent.

(2) RULL OF CONSTRUCTION.—Any devise of an interest in trust or restricted land under subsection (a) that is not part of a family farm shall be deemed to be a gratuitous devise for the benefit of a member of the family of the decedent.

(i) IN GENERAL.—This subsection shall apply only to interests in trust or restricted land that are held in trust or restricted status as of the date of enactment of the Indian Probate Reform Act of 2001, and interests in any parcel of land, at least a portion of which is in trust, as of such date of enactment, that is subject to a tax sale, tax foreclosure proceeding, or similar proceeding.

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cerebral palsy; cystic fibrosis; epilepsy; Gaucher’s disease; Huntington disease; sickle cell disease; and system lupus erythematosus, Lupus. More than 20 million Americans suffer from these rare diseases.

The Orphan Drug Tax Credit has been very successful. For example, in the case of multiple sclerosis, 6 years ago there was no treatment for any type of the disease, only for its symptoms. Thanks to this law, there are now three products on the market to treat the disease.

Unfortunately, the design of the credit includes a flaw that limits its effectiveness. The bill we are introducing today would correct this problem. Under the current Orphan Drug Tax Credit, a 50 percent is available for expenses related to human clinical testing of drugs that are designated as meeting the statutory definition of an “orphan” by the Food and Drug Administration, FDA. Qualifying expenses are those paid or incurred after the date on which the drug is designated as a potential treatment for a rare disease or disorder.

The problem is that qualified expenses incurred during the time it takes the FDA to officially designate the drug as an “orphan” are not eligible for the credit. Unfortunately, the FDA approval process can take from two months to more than a year. In some cases, companies developing these potentially life-saving drugs are left with a difficult decision: delay the start of the clinical trials until the designation is received, or go ahead and start the trials without the designation, but forego the benefits of tax credit that is so crucial to offsetting the high cost of developing these drugs. Neither choice is in the best interest of the 230 million Americans who are waiting and hoping for a cure for their disorder.

The bill we are introducing today would solve this problem by simply providing that qualifying expenses include those incurred after the date on which the company files an application with the FDA for designation of the drug as a potential treatment for a rare disease or disorder. The credit’s availability for these pre-designation expenses, however, is conditioned upon the FDA actually making the designation. Thus, under this change, the designation must still first be granted before the credit could be claimed. But, once the designation is granted, the credit could be claimed for both the clinical testing expenses incurred between the filing of the application and the designation date, as well as for those incurred after the designation date.

It is important to note that this change will also simplify the current law. In fact, this change was recommended earlier this year by the staff of the Joint Committee on Taxation in its study of recommendations to simplify the Federal tax system.

The bill would also make one other change designed to help Americans suffering from rare diseases. It would provide that the FDA publish a monthly basis a list of applications for orphan drug designations. This provision will allow rare disease patients early access to information about proposed clinical trials and will help the industry locate research subjects for their studies.

The Orphan Drug Tax Credit enjoys wide bipartisan support, and rightly so. It is a tax incentive that works. Now, we have a chance to make it work even better. The changes in this bill was passed in both the Senate twice in the 106th Congress, once in H.R. 2488, the Financial Freedom Act of 1999, which was vetoed by President Clinton for unrelated reasons, and again in H.R. 4577, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2001, which passed on July 10, 2000.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of bill be printed in the RECORD.

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

SEC. 1. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows: "(I) after the date that the application is filed for designation under such section 526, and"

(b) CONFORMING AMENDMENT.—Clause (I) of section 45C(b)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting “which is” before “being” and by inserting before the comma a semicolon and "designated under section 526 of such Act". 

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SEC. 2. PUBLICATION OF FILING AND APPROVAL OF REQUESTS FOR DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS.

Subsection (c) of section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) is amended to read as follows:

"(c) Not less than monthly, the Secretary shall publish in the Federal Register, and otherwise make available to the public, notice of requests for designation of a drug under subsection (a) and approvals of such requests. Such notice shall include—"

1. The name and address of the manufacturer and the sponsor;
2. The date of the request for designation or of the approval of such request;
3. The nonproprietary name of the drug and the name of the drug under which an application is filed under section 505(b) or section 351 of the Public Health Service Act;
4. The rare disease or condition for which the designation is granted or approved; and
5. The proposed indication for use of the product.

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

S. 1342. A bill to allocate H-1B visas for demonstration projects in rural America; to the Committee on the Judiciary.

Mr. DORGAN. Madam President, I’m pleased to be joined by Senator STEVENS in introducing legislation that we believe will develop high-tech employment opportunities and rural communities by using the H-1B visa program in a meaningful way for rural States.

Over the past several decades, hundreds of communities in rural America have seen their populations shrink by more than a third. Devastated by the overwhelming loss of people and businesses, or outmigration, these rural communities have been stymied in their efforts to grow their economies and create jobs for their people. Most of these areas have also not benefited from the recent technology-driven growth in the economy. The combined effects of this economic stagnation and isolation have made it extremely difficult for these small rural towns to attract high-tech companies and recruit the skilled technology workers that they need to participate in the new economy.

The proposal we are introducing today builds upon legislation signed into law by President Clinton last fall that provided the Nation’s high-technology companies with the stopgap measure they needed to secure skilled workers for unfilled positions by increasing the annual number of foreign workers that can receive H-1B status to 195,000 over the next three years. That legislation, which I supported, was an appropriate short-term response to the problems caused by a scarcity of qualified labor that threatened the nation’s continued economic growth.

The bill that Senator STEVENS and I are now introducing is called the “21st Century Homesteading Act.” It would set aside up to 50,000 H-1B visas for demonstration projects in qualifying rural areas, including those devastated by population loss. This legislation is designed to encourage high-technology firms to grow their businesses and increase employment in those distressed rural areas that need them the most. It would do this by both awarding grant funds and targeting a small portion of the total annual H-1B visa allocations to economic development planning districts in eligible areas.

The major provisions of the 21st Century Homesteading Act are as follows:

Six demonstration programs. The bill authorizes and requires the Secretary of Agriculture to conduct up to six demonstration H-1B projects, which would be implemented through the award of grant funding to qualifying economic development planning districts in rural and agricultural application process. To apply for grant funds, economic development planning districts would be required, among other things, to submit an application to the Secretary, sign a resolution of support to bring high-tech development opportunities into that district, and execute a declaration of need confirming that the area has experienced substantial outmigration, has
high unemployment or poverty rates, or has a population that is 10 percent or more Native American.

Local transfer of visa fees. The amount of each grant awarded to eligible districts would be equal to the H-1B visa fees paid by petitioning employers. Grants would be used only to provide education, training, equipment, and infrastructure in connection with the employment of H-1B workers within that district.

Total of 12,000 H-1B visas. Up to 12,000 H-1B visas could be issued to eligible aliens for employment through these demonstration projects—no one planning district could issue more than 2,000 H-1B visas.

New account for program funds. A separate “Twenty-first Century Homesteading Account” would be established in the Treasury general fund. The H-1B visa fees paid for foreign workers in approved demonstration projects would be deposited into that account and would be available for use by the Agriculture Secretary until expended to carry out such projects.

Let me be clear on three points. First, we do not intend with this legislation to replace skilled American workers with their foreign counterparts. Under current law, H-1B visas are temporary and firms that significantly rely on them must have attempted to hire U.S. workers and attest that no U.S. worker is not laid off during a significant period of time before and after an H-1B worker is hired. Our legislation would not change these and other restrictions. Furthermore, the 21st Century Homesteading Act also requires designated economic development planning districts to establish training programs for other workers who live in that district.

Second, this legislation permits an allocation of no more than 2,000 H-1B visas for each of the six demonstration projects that are authorized. Thus, even if all 12,000 H-1B visas were ultimately allocated to the full six demonstration projects, that number would still represent less than one-tenth of the total H-1B visas permitted in the first year. This small allocation of H-1B visas should have little or no impact on the overall efforts of companies seeking H-1B workers in other parts of the country. In fact, to date, only 117,000 of the 195,000 H-1B visas available for this year have been approved, so all H-1B visas that are authorized for these demonstration programs should not present a problem.

And third, this legislation in no way increases or decreases the overall levels of immigration into the country. It simply targets a very small number of existing employment visas to those communities that have not benefited from the recent technology boom, and which are likely to benefit the most from the addition of new residents with the necessary skills to help attract and retain high-tech employers.

Finally, I would note that the prospect for these demonstration projects is not merely a theoretical exercise. This approach was raised with me by economic development officials in North Dakota who stand ready, willing, and able to apply for economic development planning district status. In my judgment, this group has already demonstrated a level of commitment that is needed to make this initiative successful.

There is a great need in rural America, especially in states like mine. But often this need is not properly addressed here in Washington because of what I think is a fundamental misunderstanding of the problem of out-migration and the economic maladies associated with it. The 21st Century Homesteading Act is an effort to fine tune one of our federal policies in order to address the shortage of skilled labor and lack of job growth in many rural communities. I urge my colleagues to support this important demonstration initiative for rural America.

By Mr. CHAFFEE (for himself, Mrs. FEINSTEIN, Ms. SNOWE, Mr. SCHUMER, Ms. MOLLINS, Mr. BINGAMAN, Mr. SPERET, Mrs. CLINTON, Mr. JEFFORDS, Mr. GRAHAM, Mr. HARKIN, and Mr. CORZINE):

S. 1343. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the Medicaid program; to the Committee on Finance.

Mr. CHAFFEE, Madam President, I am pleased to be joined today by Senators FEINSTEIN, SNOWE, BINGAMAN, COLLINS, SCHUMER, SPERET, GRAHAM, CLINTON, CORZINE, HARKIN, and JEFFORDS in introducing the Family Planning State Empowerment Act of 2001. This legislation would provide States with a mechanism to improve the health of low-income women and families by allowing States to expand family planning services to additional women under the Medicaid program.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid, due to the importance of these for low-income women. This reimbursement rate is higher than for most other health care services.

Generally, women may qualify for Medicaid services, including family planning services, if they are unemployed or eligible for assistance and are pregnant or children and an income level below a threshold set by the State (ranging from 15-86 percent of the Federal poverty level; or they are pregnant and have incomes up to 133 percent of the poverty level). The law allows states to raise this income eligibility level to 185 percent, if they desire. If a woman qualifies because of pregnancy, she is automatically eligible for family planning services for sixty days following delivery. After sixty days, the women’s Medicaid eligibility expires.

If States want to provide Medicaid family planning services to additional populations of low-income women, they must apply to the federal government for a so-called “1115” waiver. These waivers allow States to establish demonstration projects in order to test new approaches to health care delivery in a manner that is budget-neutral to the Federal Government.

To date, these waivers have enabled fourteen States to expand access to family planning services. Most of these waivers allow states to extend family planning services to women who are sixty-day post-partum period. This allows many women to increase the length of time between births, which was significant for women and their children. For this reason, an Institute of Medicine report recommended that Medicaid should cover family planning services for two years following a delivery.

Some of the waivers allow States to provide family planning services to women based on income, regardless of whether the child was born due to pregnancy or children. In general, States have used the same income eligibility levels that apply to pregnant women (133 percent or 185 percent of the poverty level, creating continuity for family planning and maternal care services. These expanded services also help states reduce rates of unintended pregnancy and the need for abortion.

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My State of Rhode Island was one of the first states to obtain one of these waivers, and has had great success with it in terms of preventing unintended pregnancies and improving public health. In general, Rhode Island’s waiver has been among the most successful. Rhode Island’s waiver has consisted of low-income women with spacing-out their births. The number of low-income women in Rhode Island with shorter inter-birth intervals has increased from 1 percent in 1993 to 29 percent in 1999. The gap between Medicaid recipients and privately insured women was 11 percent in 1993, compared with only 1 percent—almost negligible, in 1999. As these statistics show, these waivers are extremely valuable and serve as a huge asset to the women’s health, not only to my constituents but to constituents in the thirteen other States who currently benefit from these waivers.

Unfortunately, the waiver process is extremely cumbersome and time-consuming, often taking up to three years for States to receive approval from the Federal Government. This may discourage States from applying for family planning waivers, or at the very least, delay them from providing important services to women.

Our bill would rectify this problem by allowing States to extend family planning services through Medicaid without going through the waiver process. Eliminating the waiver requirement will facilitate State innovation.
and provide assistance to more low-income women.

This bill will allow States to provide family planning services to women with incomes up to 185 percent of the Federal poverty level. For low-income, post-partum women, States will no longer be limited to providing them with only sixty days of family planning assistance. States may also provide family planning for up to one year to women who lose Medicaid-eligibility because of income.

I urge my colleagues to join me in supporting this important legislation, and ask for unanimous consent that the legislation and the accompanying findings section be printed in the RECORD.

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

S. 1935 1905(a)(4)(C) as a result of such amendment, that any individual who was receiving medical assistance through the end of the 6-month period that begins on the first day the individual became ineligible for medical assistance because of income.

I urge my colleagues to join me in supporting this important legislation, and ask for unanimous consent that the legislation and the accompanying findings section be printed in the RECORD.

The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

(2) the eligibility income level (expressed as a percent of basic Federal poverty line) that has been specified under a waiver authorized by the Secretary or under section 1902(r)(2), as of October 1, 2001, for an individual to be eligible for medical assistance under the State plan (as a result of pregnancy or otherwise).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

Mrs. FEINSTEIN. Madam President, I am pleased to be joined by a bipartisan group of my colleagues in introducing this important legislation. I rise today with Senators CHAFEE, SNOWE, SCHUMER, COLLINS, BINGAMAN, SPECKER, CLINTON, JEFFORDS, GRAHAM, HARKIN, and CORZINE to introduce the Family Planning State Empowerment Act of 2001.

The Family Planning State Empowerment Act of 2001 would give States the option to provide family planning services to low-income women who do not qualify for Medicaid.

Each year, approximately 3 million pregnancies, or about half of all pregnancies, are unintended. Increasing access to family planning services could help avert these 3 million unintended pregnancies and all the decisions and costs associated with either continuing or terminating a pregnancy.

Family planning services give women the necessary tools to control the births of their children, which improves women's health and reduces rates of infant mortality.

Medicaid family planning is also cost effective. For every $1 invested in family planning services, $3 are saved in pregnancy and health care-related costs.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid.

If States want to provide Medicaid family planning services to populations of low-income women, other than low-income pregnant women or low-income women with children, they must apply to the Federal Government for a waiver.

Presently, 14 States, including California, have obtained Medicaid waivers from the Federal Government to provide family planning services to over 1 million women annually. Another eight States have applied for waivers.

The waiver process is extremely cumbersome and time consuming, often taking up to three years to receive approval from the Federal Government.

This is legislation is timely because once again the door is being closed by the Administration on women's reproductive health. This time, the losers will be low-income women.

Secretary of Health and Human Services Tommy Thompson announced last month that he will not approve any new waiver requests or grant any renewals for single service waivers, which includes this Medicaid family planning waiver.

And if the Administration gets its way, California will lose $100 million a year, and over 900,000 low-income Californians will have to look elsewhere for family planning and reproductive health services.

Family planning and reproductive health services are much more than just accessing contraceptives. Services provided include screening and treatment for sexually transmitted diseases and HIV, basic infertility services and pregnancy testing, and counseling. Women can receive pap smears and breast exams, which are crucial to detecting cervical and breast cancer.

It is estimated that this waiver will save California $900 million over the 5-year waiver period in public expenditures for medical care and social services.

It is ironic that an Administration that is seeking to reduce the number of abortions would try to halt the very family planning services that could avoid unintended pregnancies.

In effect, the Administration is asking the clinics in our States, which provide services to some of our Nation's sickest and most vulnerable populations, to either turn away low-income women who need family planning services at the door or to provide them with services without the necessary funds.

I am pleased to join my colleagues in saying enough is enough. Low-income women deserve access to family planning and reproductive health services. And States should not have to ask the federal government for permission to use Medicaid funds to provide these essential services.

It is time that this Administration walk-the-talk and talk-the-talk. We cannot afford to shut the door on those who cannot otherwise afford family planning and reproductive health services.

I urge my colleagues to join me in supporting this important legislation.

Mr. SCHUMER. Madam President, the Family Planning State Empower
ment Act is our long-term shield against the ideological whims of those who threaten to cut cost-effective family planning services for low income women across the country. Why do we need such a protective measure? In the past two weeks, it became clear that the Federal Government would not renew these programs nor would they approve any pending application requests. That is why I, along with 21 of my colleagues including Mr. Chafee, sent a letter to the government to reconsider their decision which would seriously impinge upon the ability of states to expand coverage of family planning services.

The Family Planning State Empowerment Act would allow State governments and agency experts to practice what they know best, implementing these cost-effective family planning service programs that reduce the number of unintended pregnancies and abortions. In New York alone, 13,440 babies will be served under its pending family planning service program proposal. As the years go by, States are offering more services to more women all at a minimal cost to the Federal Government.

Throughout women aged 13 to 44 in New York who are in need of publicly supported contraceptive services, 16.5 million in the United States. Thousands of women have already benefitted from prenatal, delivery, and postpartum services and economic insecurity that plague Indian and Alaska Native communities. In 1999, the Bureau of Indian Affairs labor statistics for Indian and Alaska Native communities determined that the unemployment rate for Indian and Alaska Native communities was 43 percent. This figure is astonishing when compared to the overall unemployment rate in the United States which is only 4.5 percent. As former Chairman and now Vice-Chairman of the Committee on Indian Affairs, I have focused on building tribal capacity and good governance so that Indian and Alaska Native communities can create business-friendly environments. Human capital and skill development is also important, and with training and certificate programs tribally-controlled community colleges are fostering skilled workers who are ready to enter into the marketplace.

The bill that I am introducing today will enable tribally-controlled community colleges to develop commercial vehicle training programs. There are already two tribally-controlled community colleges, D-Q University in the State of California and Fort Peck Community College in the state of Montana, that offer commercial vehicle driving programs. The grant program authorized in this bill will encourage other tribal colleges to develop commercial truck driving training programs.

The American Trucking Association reports that at least until year 2005, the trucking industry will need to hire 403,000 truck drivers each year to fill empty positions.

According to the Federal Government Occupational Handbook the commercial driving industry is expected to increase about as fast as the average for all occupations through the year 2008 as the economy grows and the amount of freight carried by trucks increases.

A career in commercial vehicle driving offers attractive competitive salary, employment benefits, job security, and a profession. The Family Planning State Empowerment Act would allow State governments and agency experts to practice what they know best, implementing these cost-effective family planning service programs that reduce the number of unintended pregnancies and abortions. In New York alone, 13,440 babies will be served under its pending family planning service program proposal. As the years go by, States are offering more services to more women all at a minimal cost to the Federal Government.

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SEC. 4. COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.

(a) GRANTS.—The Secretary may award 4 grants, on a competitive basis, to eligible entities to support programs providing training and certificating leading to the professional development of individuals with respect to commercial vehicle driving.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a tribally-controlled community college or university (as defined in section 2 of the Tribally-Controlled Community College or University Assistance Act of 1978 (25 U.S.C. 1801)); and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) grant applications that propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute;

(2) grant applications that propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute;

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

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

S. 1345. A bill to direct the Secretary of Transportation to establish a commercial vehicle safety pilot program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Madam President, I rise today to introduce legislation the Commercial Truck Safety Pilot Program Act to create a safety pilot program for commercial trucks.

The Commercial Truck Safety Pilot Program Act would authorize a safety demonstration program in my home state of Maine that could be a model for other states. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal Interstate truck weight limit of 80,000 pounds.

I believe that safety must be the number one priority on our roads and highways, and I am very concerned that the existing Interstate weight limit has the perverse impact of forcing commercial trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from federal weight limits on the Maine Turnpike that was signed into law as part of TEA-21. I have also corresponded with the Department of Transportation and the Senate Environment and Public Works Committee to make them aware of my serious concerns and to urge them to work with me in an effort to address this challenge.

In addition, the Maine Department of Transportation is in the process of conducting a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, which will focus on the safety and environmental infrastructure issues, air quality issues and economic issues as well, in order to secure the data necessary to ensure that commercial trucks are required to operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits. 80,000 pounds, on the Interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. The legislation I am submitting today would simply direct the Secretary of Transportation to establish a three-year pilot program to improve commercial motor vehicle safety in the State of Maine.

Specifically, the measure would direct the Secretary, during this period, to waive federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, states, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Madam President, I rise to join with my colleague from Maine in sponsoring the Commercial Truck Safety Pilot Program Act, an important piece of legislation that addresses a significant safety problem in our State.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from Maine’s border with New Hampshire to Augusta, and on to the rest of the State. At Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds for another 200 miles through the northern half of the State, and on to smaller roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec.

The weight limit disparity on various segments of Maine’s Interstate Highway System forces trucks traveling to and from destinations in these States and provinces to use Maine’s State and local roads. Consequently, many Maine communities along the Interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine’s Interstate highways.

The problem Maine faces because of the disparity in truck weight limits is perhaps most pronounced in our State capital. Augusta is the Maine Turnpike’s northern terminus where heavy trucks that are prohibited from traveling along the northern portion of Interstate 95 enter or exit the Turnpike. The high number of trucks that must traverse Augusta’s local roads creates a severe hazard for those who live and work in as well as visit the city.

It is estimated that the truck weight disparity sends 310 vehicles in excess of 80,000 pounds through Augusta everyday. These vehicles, which are often carrying hazardous materials, must pass through the Cony Circle, one of the State’s most dangerous traffic circles. The Maine Turnpike is the State’s main Interstate System within Maine, per-
By Mr. SESSIONS (for himself, Mr. BINGAMAN, Mr. ALLARD, and Ms. COLLINS):

S. 1346. A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes; to the Committee on Finance.

By Mr. SESSIONS, Madam President, we do a lot of things here that are controversial and get headlines. But oftentimes we do things that are bipartisan, that are complex and technical. Working together, we accomplish things that are good for the country.

The legislation I have introduced tonight, along with Senator JEFF BINGAMAN from New Mexico, is that kind of legislation. It is supported by 27 different farm and veterinary medicine groups. It is called the Minor Use and Minor Species Animal Health Act. It deals with a problem that, unfortunately, goes largely unnoticed, except by those who are directly affected. Livestock and food animal producers, pet owners, zoo and wildlife biologists, and animals themselves face a severe shortage of approved animal drugs for use in minor species.

Minor species include thousands of animal species, including all fish, birds, and sheep. By definition, minor species are any animals other than the major species, which are cattle, horses, chickens, turkeys, dogs, and cats. A similar shortage of drugs and medicines for major animal species exists for diseases that occur infrequently or which occur in limited geographical areas.

Due to the lack of availability for these minor use drugs, millions of animals go untreated or treatment is delayed. Without access to these necessary minor use drugs, farmers and ranchers also suffer. An unhealthy animal that is left untreated can spread disease throughout an entire herd. For example, sheep ranchers lost nearly $45 million worth of livestock in 1999 alone. The sheep industry estimates if it had access to effective and necessary drugs to treat diseases, growers' reproduction costs for their animals would be cut by up to 15 percent. In addition, feedlot deaths would be reduced by 1 to 2 percent, adding approximately $8 million of revenue to the industry. Alabama's catfish industry ranks second in the Nation. Though it is not the State's only aquacultural commodity, catfish is by far its largest. Indeed, catfish make up 68 percent of the Nation's aquacultural industry. That industry generates enormous opportunities in the poorest part of Alabama, and it is necessary that it be a strong industry.

The catfish industry estimates its losses at $60 million per year attributable to diseases for which drugs are not available. Indeed, it is not uncommon for a catfish producer to lose half his stock to disease.

The U.S. aquacultural industry overall, including food fish and ornamental fish, produces and raises over 800 different species. Unfortunately, this industry has only five drugs approved for use in treating aquacultural diseases. This results in economic hardship.

The problem is simply this: A drug company must go through a long research program to develop a drug. Then the company has to seek approval for the drug. The company simply is financially unable to do so because there are not many animals for which the product will be used. It makes it difficult for them to do the investment.

I, along with Senators BINGAMAN, ALLARD, and COLLINS, resolve to improve this situation by introducing the Minor Use and Minor Species Animal Health Act. The legislation will allow animal drug manufacturers the opportunity to develop and obtain approval for minor use drugs which are vitally needed by a wide variety of animal industries.

Our legislation incorporates the major proposals of the Food and Drug Administration's Center for Veterinary Medicine to increase the availability of drugs for minor animal species and rare diseases in all animals. The act creates incentives for animal drug manufacturers to invest in product development and obtain FDA approval.

The legislation creates a program very similar to the human orphan drug program that has dramatically increased the availability of drugs to treat rare human diseases over the past 20 years.

The Minor Use and Minor Species Animal Health Act will not alter, however, the FDA drug approval responsibilities that ensure the safety of animal drugs to the public. The FDA's Center for Veterinary Medicine currently evaluates new animal products prior to approval and use. This rigorous testing and review process provides consumers with the confidence that animal drugs are safe for animals and consumers of products derived from treated animals.

Current FDA requirements include guidelines to prevent harmful residues and evaluations to examine the potential for the selection of resistant pathogens. Any food animal medicine or drug considered for approval under this bill would be subject to the same assessments.

The Minor Use and Minor Species Animal Health Act is supported by 25 organizations, including the American Farm Bureau Federation, the Animal Health Institute, the American Veterinary Medical Association, and the National Aquaculture Association. This is vital, important legislation.

The act will reduce the economic risks and hardships which fall upon ranchers and farmers as a result of livestock diseases. It will benefit pets and their owners and benefit various endangered species and aquatic animals. It will promote the health of all animal species while protecting human health as well, and will alleviate unnecessary animal suffering.

This is commonsense legislation which would benefit millions of American pet owners, farmers, and ranchers. I believe it represents a consensus effort on which we worked hard.

Mary Alice Tyson, on my staff, and other staff members have worked hard on it. I believe it is an act that will gain universal support in the Senate, will be a step forward, and something good we can do to help animals and the producers of animals in America.

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

S. 1347. A bill to establish a Congressional Trade Office; to the Committee on Government Affairs.

Mr. BAUCUS, Madam President, on behalf of myself and Senator BYRD, I am introducing a bill to create a Congressional Trade Office. This is designed to help the Senate get ahead of the curve and better understand and deal with globalization, trade, and economic commercial actions around the world, to help us understand what we are doing.

The Congressional Trade Office, the CTO, will have the expertise we need in Congress to get independent and nonpartisan information about trade. This new entity will help us meet our constitutional responsibility for trade policy.

The importance of trade in our economy continues to grow. Trade is equivalent to 27 percent of our economy today, compared with only 11 percent in 1970, just 30 years ago.

Article I, section 8 of the U.S. Constitution provides:

Congress shall have the power . . . to regulate commerce with foreign nations.

Our responsibility as Members of Congress is to set the direction of trade policy. It is true that under article II of the Constitution, the President, the Chief Executive, has the primary responsibility with respect to foreign policy. With respect to trade, the Constitution is clear, and it provides that Congress shall have the power to regulate commerce with foreign nations. Our responsibility is effective and active oversight of our Nation's trade policy.
I have served in the Congress for 25 years and I have watched the continuing transfer of responsibility for trade policy from the Congress to the executive branch.

I believe this must stop. We must reassert Congress' constitutionally defined responsibility. The CTO can provide the means to meet our responsibilities.

Congress needs to be much better prepared to deal with trade issues responsibly and authoritatively: consider the WTO; FTAs—so-called free trade agreements—with Jordan, Chile, Singapore, and perhaps Australia, and others; Chinese accession to the WTO; a possible new round launch; compliance with existing agreements.

To manage trade policy, we need access to more and better information, independently arrived at, from people whose commitment is to the Congress, and only to the Congress.

The first task of the CTO is to monitor compliance with major trade agreements. It will evaluate success based on real world business results. It will recommend actions needed to ensure that commitments are fully implemented. It will also provide annual assessments of the extent to which agreements comply with labor and environmental goals.

The CTO's second task will be to observe trade negotiations firsthand. CTO staff will participate in selected negotiations as observers and report back to the Congress. Congress needs this information to provide meaningful oversight of trade policy. And it is especially vital for Congress to monitor trade negotiations under fast track.

The third task relates to dispute settlement. The CTO will evaluate each WTO decision where the U.S. is a party. CTO staff will participate as observers and report on the U.S. delegation.

Frankly, I don't think we know whether the WTO dispute settlement process has been successful or not, from the perspective of U.S. commercial interests. A count of wins versus losses doesn't tell us very much. The CTO will give us the facts we need to evaluate the process properly.

The final task will be analytical. The CTO will analyze major outstanding trade barriers based on a cost to the U.S. economy. It will also provide an analysis of the administration's—Republican or Democrat—trade policy agenda, and it will analyze the trade accounts every quarter.

The Congressional Trade Office is designed to serve the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee, but will also advise other committees. It will also have a substantial impact on the overall impact of trade negotiations on those committees' areas of jurisdiction.

Trade rules increasingly affect domestic regulations. The CTO can advise on the implications of trade policy for domestic regulatory issues.

The CTO will have a professional staff with a mix of expertise in economics and trade law in various industries and geographic regions. I believe this will give Congress long-term institutional memory on trade, something that is very much needed, particularly when other countries have much more expertise, much more time in their governments devoted to trade and how their countries can benefit from trade basically at the expense of others.

I am very grateful for the support of my good friend, Senator Byrd, and I encourage my colleagues to join with us in creating the Congressional Trade Office. I believe this will help the Congress get a little bit further ahead of the curve, better understand the implications of globalization, and pull us a little bit out of our day-to-day reactive mode around here, thinking more long term in a better sense of what is happening in the world—more information, better information on which we can make decisions in this body and, therefore, serve our people better.

I very much thank my good friend, Senator Byrd. He has been helpful to us. I yield the floor, and I, again, thank him for his help.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, congratulations to the Senator from Montana on his longtime leadership in the trade field and for his services on the Finance Committee which has jurisdiction in very great measure over this subject matter. I thank him for his leadership. I thank him for sponsoring the legislation that he has just discussed and for allowing me to be a co-sponsor with him. I value his leadership in this area.

I have been long concerned about the U.S. trade policy. It extends over these 49 years in which I have been a Member of the Congress from West Virginia and I am for fair trade. I have in recent years voted against the North American Free Trade Agreement. I voted against the GATT/WTO agreements. I voted against the permanent normal trading relations with China. It is my belief that American interests particularly the interests of American workers, have not been properly represented in these developments. I believe that Congress has allowed itself to take a backseat to the intent of Presidents on making international trade negotiations an executive-to-executive preserve.

Congress should vigorously defend the authority it has been granted under the Constitution, whether the issue is a legislative enactment that strips away the authority of Congress to debate and, if necessary, to demand trade agreements or a constitutional amendment that—in the name of balanced budgets—strips away our power over the purse. The balanced budget amendment is an issue for another occasion. The need for Congress to restore its role with respect to foreign trade, however, is something that Senator Baucus and I wish to highlight. We note that article I, section 8, of the Constitution gives Congress the exclusive authority to "regulate commerce with foreign nations." Congress, not the President, has this authority and responsibility.

Unfortunately, over the past few decades, Congress has been less than zealous in safeguarding its prerogatives with respect to foreign trade. The result is that the American people have lost input into our trade agreements than they should have. Is there any doubt that the process is less democratic than was intended by the Framers of the Constitution?

U.S. trade negotiators need our input at each and every stage of the process. Enhanced congressional participation will help us in this, to reinforce the framework of fair trade. It will give the results of trade negotiations greater legitimacy and increase public understanding of the costs and benefits of globalization. The Constitution demands that we make this effort, and the people we represent expect us to make that effort.

Madam President, now is the time for the House and the Senate to create a Congressional Trade Office modeled after the Congressional Budget Office. Regardless of how each of us may feel about the great trade issues of the day, we should be able to agree that Congress needs better access to information about trade negotiations and the impact of trade agreements on the U.S. economy. It is indisputable that we live in an increasingly interdependent world, and it is our duty under the Constitution to make sure American interests are properly reflected as the architecture of that world is established.

Senator Baucus and I agree on the urgency of this task. Our legislation would establish a nonpartisan Congressional Trade Office the purposes of which would be to first, provide Congress with trade data and analysis; second, participate in all future trade negotiations; third, observe and evaluate international trade dispute resolution processes; and fourth, monitor compliance with major bilateral, regional, and multilateral trade agreements.

The Senate Finance Committee and the House Ways and Means Committee cannot possibly address the full panoply of issues that arise in this day and age in connection with trade legislation. Consequently, trade bills can be—and are—referred to multiple committees in both Houses of Congress. Our bill recognizes this trend and provides that the resources of the Congressional Trade Office will be available to all House and Senate committees of relevant jurisdiction.
I join with Senator Baucus in urging our colleagues to seize this opportunity to move toward the restoration of our constitutional role in trade policy. Let us resolve to put ourselves, the Congress, back in the center of the great game of formulating and implementing mutually beneficial international trade agreements.

Madam President, I thank my colleague, Mr. Baucus, again, for his leadership, and I yield the floor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 147—TO DESIGNATE THE MONTH OF SEPTEMBER OF 2001, AS "NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH"

Mr. WELLSSTONE submitted the following resolution; which was referred to the Committee on the Judiciary: S. Res. 147

Whereas alcohol and drug addiction is a devastating disease that can destroy lives, families, and communities;

Whereas alcohol and drug addiction carry direct and indirect costs for the United States of more than $246,000,000,000 each year;

Whereas scientific evidence demonstrates the crucial role that treatment plays in restoring those suffering from alcohol and drug addiction to more productive lives;

Whereas in 1999, research at the National Institute on Drug Abuse at the National Institutes of Health showed that about 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs; an additional 8,200,000 were dependent on alcohol;

Whereas in 1999, National Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies substantially among States, ranging from a low of 4.7 percent to a high of 10.7 percent for the overall population, and from 8.0 percent to 18.3 percent for youths age 12-17;

Whereas the Office of National Drug Control Policy’s 2001 National Drug Control Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public.

Whereas the lives of children, families, and communities are severely affected by alcohol and drug addiction, through the effects of the disease, and through the neglect, broken relationships, and violence that are so often a part of the disease of addiction;

Whereas a National Institute on Drug Abuse 4-city study of 1,200 adolescents found that community-based treatment programs can reduce drug and alcohol use, improve school performance, and lower involvement with the criminal justice system;

Whereas a number of organizations and individuals dedicated to fighting addiction and promoting treatment and recovery will recognize the month of September of 2001 as National Alcohol and Drug Addiction Recovery Month;

Whereas the Substance Abuse and Mental Health Services Administration’s Center for Substance Abuse Treatment, in conjunction with its national planning partner organizations and treatment providers, have taken a Federal leadership role in promoting Recovery Month 2001;

Whereas National Alcohol and Drug Addiction Recovery Month aims to promote the societal benefits of substance abuse treatment, laud the contributions of treatment providers, and promote the message that recovery from substance abuse in all its forms is possible;

Whereas the 2001 national campaign embraces the theme of “We Recover Together: Family, Friends and Community”, and high-elective contributions to their families, workplaces, communities, States, and the Nation; Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September of 2001 as “National Alcohol and Drug Addiction Recovery Month”;

(2) requests that the President issue a proclamation urging the people of the United States to carry out appropriate programs and activities to demonstrate support for those individuals recovering from alcohol and drug addiction.

Mr. WELLSSTONE, Madam President, I rise today to submit a resolution to proclaim September, 2001 as “National Alcohol and Drug Addiction Recovery Month”. The purpose is to recognize the societal benefits, importance and effectiveness of drug treatment as a public health service. The Year 2001 Recovery Month theme is “We Recover Together: Family, Friends, and Community”, with a clear message that we need to work together to promote treatment for alcohol and drug addiction throughout our country.

Addiction to alcohol and drugs is a disease that many individuals face as a painful, private struggle, often without access to treatment or medical care. But this disease also has staggering public costs. A 1998 report prepared by The Lewin Group for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, estimated the total economic cost of alcohol and drug abuse to be approximately $246 billion for 1992. Of this cost, an estimated $98 billion was due to addiction to illicit drugs and other drugs taken for non-medical purposes. This estimate includes addiction treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

Adults and children who have the disease of addiction can be found throughout our society. We know from the outstanding research done at the National Institute on Drug Abuse at the National Institutes of Health that 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs. An additional 8 million were dependent on alcohol. The 1999 Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies among States, ranges from a low of 4.7 percent to a high of 10.7 percent for the overall population, and from 8.0 percent to 18.3 percent for youths age 12-17.

The 2001 National Drug Control Strategy of the Office of National Drug Control Policy, ONDCP, has recognized the importance of drug treatment. The ONDCP Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public.

We know that addiction to alcohol and other drugs contribute to other problems as well. Addictive substances have the potential for destroying the person who is addicted, as well as his or her family. We know, for example, that fetal alcohol syndrome is the leading known cause of mental retardation. If a woman who was addicted to alcohol could receive proper treatment, fetal alcohol syndrome for her baby would be 100 percent preventable, and more than 12,000 infants born in the U.S. each year would not suffer from fetal alcohol syndrome, with its irreversible physical and mental damage.
We know too of the devastation caused by addiction when violence between people is one of the consequences. A 1998 SAMHSA report outlined the links between domestic violence and substance abuse. We know from clinical reports that 25-50 percent of most intimate acts of domestic violence also have substance abuse problems. The report recognized the link between the victim of abuse and use of alcohol and drugs, and recommended that after the woman’s safety has been addressed, the next step would be to help with providing treatment for her addiction as a step toward independence and health, and toward the prevention of the consequences for the children who suffer the same abuse either directly, or indirectly by witnessing spousal violence.

The physical, emotional, and social harm caused by this disease is both preventable and treatable. We know from research conducted at NIH, through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, that treatment for drug and alcohol addiction can be effective. The effectiveness of treatment is the major finding from NIDA’s 4-city study of drug abuse treatment outcomes for 1,200 adolescents. The study showed that community-based treatment programs can reduce drug and alcohol use, improve school performance, and lower involvement with the criminal justice system.

Addiction to alcohol and drugs is a disease that affects the brain, the body, and the spirit. We must provide adequate opportunities for the treatment of addiction in order to help those who are suffering and to prevent the health and social problems that it causes. We know that the costs to do so are very low. A 1999 study by the Rand Corporation found that the cost to managed health care plans now only $15 per person per year for unlimited substance abuse treatment benefits to employees of big companies. A 1997 Milliman and Robertson study found that complete substance abuse treatment parity would increase per capita health insurance premiums by only one half of one percent, or less than $1 per member per month—without even considering any of the obvious savings that will result from treatment. Several studies have shown that for every $1 spent on treatment, more than $7 is saved in other health care expenses. These savings are in addition to the financial and other benefits of increased productivity, as well as participation in family and community life. Providing treatment for addiction also saves millions of dollars in the criminal justice system. But for treatment to be effective and helpful throughout our society all systems of care, including private insurance plans, must share this responsibility.

The National Alcohol and Drug Addiction Recovery Month in the year 2001 celebrates the tremendous strides taken by individuals who have undergone successful treatment and recognizes those in the treatment field who have dedicated their lives to helping our young people recover from addiction. Many individuals, families, organizations, and communities give generously of their time and resources to help those suffering from addiction and to help them to achieve recovery and productive, healthy lives. The Substance Abuse and Mental Health Services Administration’s Center for Substance Abuse Treatment, SAMHSA/CSAT, in conjunction with national planning partner organizations and treatment providers, have taken a Federal leadership role in promoting Recovery Month 2001. The Recovery Month events being planned throughout our nation, including one on September 29, in St. Paul, Minnesota, will recognize the countless numbers of those who have successfully recovered from addiction and who are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and now make positive contributions to their families, workplaces, communities, state, and nation.

I urge the Senate to adopt this resolution designating the month of September, 2001, as Recovery Month, and to take part in the many local and national activities and events recognizing this effort.

SENATE RESOLUTION 148—DESIGNATING OCTOBER 30, 2001, AS "NATIONAL WEATHERIZATION DAY" Mr. BIDEN submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 148

Whereas the average family in the United States spends more than $1,300 annually on utility bills,

Whereas that amount represents nearly 15 percent of a low-income family’s income and could approach 18 percent as fuel costs steadily rise;

Whereas the Weatherization Assistance Program (referred to in this resolution as the “Program”), by using Federal, State, local, and private dollars, benefits households and communities across the Nation by providing cost-effective, energy-efficient retrofits to homes occupied by low-income families;

Whereas the average energy cost savings for each home that is weatherized is more than $250 annually, allowing families to spend the saved money on groceries, doctor bills, prescription drugs, pay for medical bills, and make themselves more self-sufficient;

Whereas carbon dioxide emissions are reduced by an average of 1 ton per weatherized household, reducing pollution levels in our air;

Whereas 52 jobs are created within the Nation’s communities for each $1,000,000 invested in weatherization;

Whereas for every $1 invested by the Department of Energy in the Program, another $3.39 is leveraged from other sources;

Whereas the Program works with public and private partners to help reduce the energy burden of the Nation’s low-income families, and promote the benefits of weatherization to all people in the Nation;

Whereas people across the Nation should become more aware of the importance of energy conservation, pollution reduction, and safer homes; and

Whereas a concerted public information campaign will help get the weatherization message to the people in our Nation: Now, therefore, be it.

Resolved, SECTION 1. NATIONAL RESPONSE TO WEATHERIZATION.

(a) DESIGNATION.—The Senate—

(1) designates October 30, 2001, as “National Weatherization Day”;

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation calling upon the Federal and private sector leaders of our Nation to observe and promote National Weatherization Day with appropriate partnerships, activities, and ceremonies.

Mr. BIDEN. Madam President, today I am proud to submit a resolution expressing the sense of the Senate that October 30, 2001, be designated as “National Weatherization Day.” By doing so, we will anchor a national effort by States, localities, and community groups to raise the awareness of all Americans concerning the importance of weatherizing the Nation’s housing stock to conserve energy, thereby reducing consumption of all forms of energy.

October is already designated as Energy Awareness Month and will serve as the ideal host month for this day. Why, then, do we need a day specifically devoted to supporting weatherization efforts? Although some people today know of the benefits of weatherizing a home, most unfortunately do not. Weatherization Day, then, will help bring targeted recognition of these efforts, and specifically those of the U.S. Department of Energy’s Weatherization Assistance Program, which uses Federal, State, local, and private dollars to provide cost-effective, energy-efficient retrofits to homes occupied by low-income families.

The average family in the United States spends more than $1,300 annually on utility bills. For low-income families, that can take away almost 15 percent of their entire annual income, and 18 percent if fuel costs rise as they have been for the past year. That is unacceptable and that is why the Weatherization Assistance Program exists today. The average energy cost savings for each home that is weatherized is more than $250 annually. This gives these families the ability to purchase essential items, like groceries and prescription drugs, pay for medical bills, and make themselves more self-sufficient. At the same time, weatherizing a
home also provides a substantial economic and environmental boon to local communities, by adding an average of 52 jobs for every $1,000,000 invested and by reducing carbon dioxide emissions by an average of 1 ton per weatherized household.

I think that we owe it to ourselves and, more importantly, to our future generations, to continue to improve the awareness of all Americans of the importance of energy conservation, pollution reduction, and safer homes. By honoring the proposed Weatherization Day, we will provide much-needed attention to this issue.

SENATE RESOLUTION 149—ELECTING ALFONSO E. LENHARDT OF NEW YORK AS THE SERGEANT OF ARMS AND DOORKEEPER OF THE SENATE

Mr. DASCHLE submitted the following resolution, which was considered and agreed to:

Resolved, That Alfonso E. Lenhardt of New York be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate effective September 4, 2001.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1228. Mr. NELSON, of Florida proposed an amendment to an amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2630) supra; which was ordered to lie on the table.

SA 1230. Mr. AKAKA submitted an amendment intended to be proposed to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA 1231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2630) supra.

SA 1240. Mr. AKAKA submitted an amendment intended to be proposed to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA 1247. Mr. SCHUMER submitted an amendment intended to be proposed to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1250. Mr. SCHUMER submitted an amendment intended to be proposed to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1256. Mr. STEVENS submitted an amendment intended to be proposed to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1257. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1258. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1259. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1260. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1261. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1262. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1263. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1264. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1265. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1266. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1267. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1268. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1269. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1270. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1271. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1272. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1273. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1274. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1275. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1276. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1277. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1278. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the
bill S. 1246, supra; which was ordered to lie on the table.
SA 1279. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1280. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1281. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1282. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1283. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1284. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1285. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
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SA 1289. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1290. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1291. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1292. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1293. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1294. Ms. SNOWE (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1295. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.
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SA 1299. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.
SA 1300. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.
SA–1341. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

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SA-1469. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA-1470. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1228. Mr. NELSON of Florida proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R.)
playground equipment.

At the appropriate place, insert the following:

**SEC. 4. STATE AND TRIBAL ASSISTANCE GRANTS.**

Notwithstanding any other provision of this Act, none of the funds made available under the heading ‘STATE AND TRIBAL ASSISTANCE GRANTS’ in title III for capitalization grants for the Clean Water State Revolving Fund (13 U.S.C. 2117 (52 U.S.C. 3001-3005)) shall be expended by the Administrator of the Environmental Protection Agency except in accordance with the formula for allocation of funds among recipients developed under subparagraph (D) of section 1452(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1375 et seq.) shall be be expended by the Administrator of the Environmental Protection Agency except in accordance with the formula for allocation of funds among recipients developed under subparagraph (D) of section 1452(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1375), except that—

(1) subject to paragraph (3), the proportionate share under clause (ii) of section 1452(a)(1)(D) of the Safe Drinking Water Act (42 U.S.C. 300j-11(a)(1)(D)) shall be a minimum of 0.675 percent and a maximum of 8.00 percent;

(2) any State the proportional share of which is greater than that minimum but less than that maximum shall receive 97.50 percent of the proportionate share of the need of the State; and

(3) the proportional share of American Samoa, the Trust Territories of the Pacific Islands, and the United States Virgin Islands shall be, in the aggregate, 0.25 percent.

**SA 1230. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:**

At the end of title VII, add the following:

**SEC. 7. UNLAWFUL STOCK PRICE STABILIZATION AND SUPPORT PROGRAMS INVOLVING NONAMBULATORY LIVESTOCK.**

(a) IN GENERAL.—Title III of the Packers and Stockyards Act, 1921, (7 U.S.C. 201 et seq.) is amended by adding at the end the following:

**SEC. 318. UNLAWFUL STOCK PRICE STABILIZATION AND SUPPORT PROGRAMS INVOLVING NONAMBULATORY LIVESTOCK.**

(1) HUMANELY EUTHANIZE.—The term ‘humanely euthanize’ means to kill an animal by mechanical, chemical, or other means that renders the animal unconscious, with this state remaining until the animal’s death.

(2) NONAMBULATORY LIVESTOCK.—The term ‘nonambulatory livestock’ means any live stock that is unable to stand and walk unassisted.

(4) UNLAWFUL PRACTICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any steady, owner, manager, agency, or dealer to buy, sell, give, receive, deliver, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

"(2) EXCEPTIONS.—

"(A) NON-GIPSA FARMS.—Paragraph (1) shall not apply to any farm the animal care of which is subject to the authority of the Grain Inspection, Packers, and Stockyards Administration.

"(B) VETERINARY CARE.—Paragraph (1) shall apply in a case in which nonambulatory livestock receive veterinary care intended to render the livestock ambulatory.

(5) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by this section shall take effect 1 year after the date of enactment of this Act.

"(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to carry out the amendment.

**SA 1231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1214 submitted by Ms. Adsit and intended to be proposed to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; as follows:**

On page 25, line 23, before the period, insert the following: "$ Provided further, That of the amount under this heading, $15,000,000 shall be available for the BuyBack America program, enabling gun buyback initiatives undertaken by public housing authorities and their local police departments".

**SA 1232. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:**

On page 24, line 3, insert "(a) In GENERAL.— before ‘In’.

On page 24, between lines 9 and 10, insert the following:

(b) BAYOU METO DEMONSTRATION PROJECT.—Of the amount made available under subsection (a), the Secretary shall use not more than $8,000,000 for financial, technical, educational, and research assistance for the Bayou Meto Demonstration Project in Lonoke County, Arkansas, in order to encourage group water conservati

**SA 1233. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:**

Strike everything after the enacting clause and insert the following:

**SEC. 310. MARKET LOSS ASSISTANCE.**

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act...
as the “Secretary”) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm under this section shall be allocable to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of oil and ground peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) IN GENERAL.—The Secretary shall use $13,400,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible producers of tobacco for the 2000 crop year that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payment under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and mohair for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under such section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

SEC. 7. INCREASE IN PAYMENT LIMITATIONS REGARDING AGRICULTURAL COMMODITIES.

(a) INCREASE IN COTTON ASSISTANCE TO PRODUCERS.—The Secretary shall use $4,622,240,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) INCREASE IN TOBACCO ASSISTANCE TO PRODUCERS.—The Secretary shall use $13,400,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(c) INCREASE IN WOOL AND MOHAIR ASSISTANCE TO PRODUCERS.—The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(d) INCREASE IN OILSEEDS ASSISTANCE TO PRODUCERS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

SEC. 8. ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

“(d) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—The Secretary shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

“(1) incurred a loss as the result of—

“(A) the business failure of any cotton buyer doing business in Georgia; or

“(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown within the State of Georgia after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

“(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

“(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

“(e) CONSUMING AMENDMENT.—Subsection (c) of such section is amended by striking—

“Upon the establishment of the indemnity fund, and not later than October 1, 1999, the” and inserting—

“The.”

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING FOOD SECURITY AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 1421 et seq.) during the 2001 crop year may not exceed $150,000.
SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 10074), relating to notices of rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (2) shall become effective one day after the date of enactment.

SA 1234. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a payment under the following: (1) the Contingency Fund Act of 2001; (2) the Market Loss Assistance Act of 2001; (3) the Agricultural Adjustment Act of 1933; (4) the Agricultural Adjustment Act of 1938; and (5) the Commodity Credit Corporation Act of 1948.

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be equal to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act of 1999 (7 U.S.C. 7201 et seq.).

SEC. 2. SUPPLEMENTAL OILSEED PAYMENT.

The Secretary shall use $242,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $542,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $537,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(e) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to the producers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $153,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of applicable specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $29,220,000.

(2) Florida, $16,860,000.

(3) Washington, $9,610,000.

(4) Idaho, $3,670,000.

(5) Arkansas, $2,080,000.

(6) Michigan, $3,250,000.

(7) Oregon, $3,220,000.

(8) Georgia, $2,730,000.

(9) Texas, $2,660,000.

(10) New York, $2,660,000.

(11) Wisconsin, $2,570,000.

(12) North Carolina, $2,140,000.

(13) Colorado, $1,510,000.

(14) North Dakota, $1,380,000.

(15) Minnesota, $1,160,000.

(16) Hawaii, $1,150,000.

(17) New Jersey, $1,100,000.

(18) Pennsylvania, $980,000.

(19) New Mexico, $970,000.

(20) Maine, $900,000.

(21) Ohio, $800,000.

(22) Indiana, $690,000.

(23) Nebraska, $640,000.

(24) Massachusetts, $630,000.

(25) Virginia, $620,000.

(26) Maryland, $500,000.

(27) Louisiana, $460,000.

(28) South Carolina, $440,000.

(29) Tennessee, $400,000.

(30) Illinois, $400,000.

(31) Oklahoma, $390,000.

(32) Alabama, $390,000.

(33) Delaware, $290,000.

(34) Mississippi, $250,000.

(35) Kansas, $210,000.

(36) Arizona, $210,000.

(37) Missouri, $210,000.

(38) Connecticut, $180,000.

(39) Utah, $140,000.

(40) Montana, $140,000.

(41) New Hampshire, $120,000.

(42) Nevada, $120,000.

(43) Vermont, $120,000.

(44) Iowa, $100,000.

(45) West Virginia, $90,000.

(46) Wyoming, $70,000.

(47) Kentucky, $60,000.

(48) South Dakota, $40,000.

(49) Rhode Island, $40,000.

(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term “specialty crop” means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 178d-3).
“(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient of a payment from the indemnity fund, for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

“(3) authorize in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

“(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

“(d) DISBURSEMENTS TO CORRION GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

“(1) incurred a loss as the result of—

“(a) the failure of any cotton producer doing business in Georgia; or

“(b) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the cotton buyer and the ginner for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

“(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producer; and

“(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton producers.

“(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking, ‘‘Upon the establishment of the indemnity fund, and not later than October 1, 1999, the’’ and inserting ‘‘The’’."

"SEC. 10. INCREASE IN PAYMENT LIMITATIONS RE- E LATING TO AGRICULTURAL PRODUCTION."

Notwithstanding section 1001(2) of the Food, Conservation, and Energy Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contracts for the production of oilseeds under the Marketing Order for Producer-owned Oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

"SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES."

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authorization of this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis to ensure that such expenditures do not exceed such amount.

"SEC. 12. REGULATIONS."

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall, on behalf of the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to im-

plement this Act and the amendments made by this Act. The promulga-tion of the regulations and administration of this Act shall be made without regard to—

(1) the make-up and payment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture of July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participa-
tion in rulemaking; and

(3) chapter 44, United States Code (commonly known as the ‘‘Paperwork Reduction Act’').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority pro-
vided under section 808 of title 5, United States Code.

"C. EFFECTIVE DATE.

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (3) shall become ef-

fective one day after the date of enactment.

"SA 1235. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis ad-
versely affecting American agricul-
tural producers by ordering the Secretary of Agriculture to make a market loss assistance payment to owners and producers on a farm that are elig-
ible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Trans-
action Act (7 U.S.C. 7201 et seq.).

(1) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be propor-
tionate to the amount of the total contract payments received by the owners and produ-
cers for the fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Trans-
action Act.

SECT. 5. SUPPLEMENTAL WOOL AND MOHAIR PAY-
MENT."

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to pro-
vide a supplemental payment under section 614 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as en-
acted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

"SEC. 6. SUPPLEMENTAL COTTONSEED ASSIST-
ANCE."

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to pro-
vide supplemental assistance under section 20(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421) to producers and first-handlers of the 2000 crop of cottonseed that previously re-
ceived assistance under such section.

"SEC. 7. SPECIALTY CROPS."

(a) BASE GRANT GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puer-
to Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $153,600,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.

(2) Florida, $16,860,000.

(3) Texas, $2,650,000.

(4) Arizona, $3,430,000.

(5) California, $3,250,000.

(6) Maryland, $3,220,000.

(7) Georgia, $2,730,000.

(8) South Carolina, $1,800,000.

(9) Louisiana, $1,500,000.

(10) Michigan, $1,380,000.

(11) Oregon, $1,340,000.

(12) North Carolina, $1,320,000.

(13) Colorado, $1,300,000.

(14) New York, $1,260,000.

(15) Maryland, $1,220,000.

(16) Washington, $1,100,000.

(17) Ohio, $1,000,000.

(18) Pennsylvania, $980,000.

(19) Washington, $950,000.

(20) North Carolina, $800,000.

(21) Ohio, $800,000.

(22) Indiana, $860,000.

(23) Wisconsin, $750,000.

(24) South Carolina, $740,000.

(25) Maine, $700,000.

(26) Texas, $650,000.

(27) Massachusetts, $600,000.

(28) Virginia, $650,000.

(29) Minnesota, $550,000.

(30) Montana, $550,000.

(31) Colorado, $500,000.

(32) Hawaii, $500,000.

(33) Nebraska, $500,000.

(34) Oklahoma, $500,000.

(35) New Mexico, $500,000.

(36) Georgia, $500,000.

(37) Illinois, $500,000.

(38) Oregon, $500,000.

(39) South Carolina, $440,000.

(40) Tennessee, $400,000.

(41) Maryland, $400,000.

(42) Mississippi, $400,000.

(43) Louisiana, $290,000.

(44) Florida, $240,000.

(45) Arizona, $900,000.

(46) Maryland, $900,000.

(47) South Dakota, $580,000.

(48) Alabama, $500,000.

(49) Delaware, $500,000.
SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

SEC. 6. SUPPLEMENTAL TOBACCO PAYMENT.

The Secretary shall use $1,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.
SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,980,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $123,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State to the national value of specialty crop production, as follows:

(1) California, $83,320,000.
(2) Florida, $16,860,000.
(3) Georgia, $2,730,000.
(4) Iowa, $100,000.
(5) Arizona, $3,430,000.
(6) Idaho, $3,670,000.
(7) Oregon, $3,220,000.
(8) Nevada, $120,000.
(9) New Hampshire, $120,000.
(10) New York, $2,660,000.
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $590,000.
(27) Louisiana, $460,000.
(28) South Carolina, $410,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $90,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) the Comoros, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘specialty crop’ means an agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the State to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be made only to States that have been provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 1750a(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (a) of section 5.1 of chapter 19 of title 2 of the Official Code of Georgia applicable to producers in Georgia under subsection (a) (in effect as enacted by Public Law 106-387; 114 Stat. 1549A-42), is amended to read as follows:

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) contributes $5,000,000 to the indemnity fund and agrees in all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

(3) agrees to deposit in the indemnity fund, the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(b) ADDITIONAL DISBURSEMENTS FROM THE INDENMTY FUND.—Subsection (d) of such section is amended to read as follows:

(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton giners (as defined and provided in such section) that—

(1) incurred a loss as the result of—

(A) the business failure of any cotton buyer doing business in Georgia; or

(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking—

(1) the indemnity fund, and not later than October 1, 1999, the—

and inserting—

(1) the indemnity fund, and not later than October 1, 1999, the—

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1301(1)), the total amount of the payments specified under section 1001(b) of this Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXISTING RULEMAKING.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ‘‘Paperwork Reduction Act’’).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (5) shall become effective one day after enactment.

SA 1237. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSURANCE.—The Secretary of Agriculture (referred to in this Act as the ‘‘Secretary’’) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made to owners and producers on a farm under this section shall be proportionate to the amount of the total contract
payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $425,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b)(6) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under such section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Supplemental Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) Special Rule for Georgia.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the provision of direct relief as provided for the supplemental payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIROC PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under such section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $81,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers and first-handers of the wool and oilseeds, first-handers to the 2000 crop of cottonseeds that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) Base State Grants.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) Grants for Value of Production.—The Secretary shall use $131,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.

(2) Florida, $16,960,000.

(3) Washington, $9,610,000.

(4) Idaho, $3,670,000.

(5) Arizona, $3,430,000.

(6) Michigan, $3,250,000.

(7) Oregon, $3,220,000.

(8) Georgia, $3,100,000.

(9) Texas, $2,660,000.

(10) New York, $2,660,000.

(11) Wisconsin, $2,570,000.

(12) North Carolina, $2,540,000.

(13) Colorado, $1,510,000.

(14) North Dakota, $1,380,000.

(15) Minnesota, $1,320,000.

(16) Hawaii, $1,150,000.

(17) New Jersey, $1,100,000.

(18) Pennsylvania, $980,000.

(19) New Mexico, $980,000.

(20) Maine, $980,000.

(21) Ohio, $800,000.

(22) Indiana, $690,000.

(23) Nebraska, $690,000.

(24) Massachusetts, $690,000.

(25) Virginia, $620,000.

(26) Maryland, $550,000.

(27) Louisiana, $460,000.

(28) South Carolina, $440,000.

(29) Tennessee, $400,000.

(30) Illinois, $400,000.

(31) Oklahoma, $390,000.

(32) Alabama, $390,000.

(33) Delaware, $290,000.

(34) Mississippi, $250,000.

(35) Kansas, $210,000.

(36) Arkansas, $210,000.

(37) Missouri, $210,000.

(38) Connecticut, $180,000.

(39) Utah, $140,000.

(40) Montana, $140,000.

(41) New Hampshire, $120,000.

(42) Nevada, $120,000.

(43) Vermont, $120,000.

(44) Iowa, $100,000.

(45) West Virginia, $90,000.

(46) Wyoming, $70,000.

(47) Kentucky, $60,000.

(48) South Dakota, $40,000.

(49) Rhode Island, $40,000.

(50) Alaska, $30,000.

(c) Specialty Crop Defined.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grants provided under this section.

(d) Specialty Crop Defined. —In this section, the term ‘specialty crop’ means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.
not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.
(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall promulgate the regulations under section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—
(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.
(2) EXCEPTION.—Section (6) shall become effective one day after the date of enactment.

SA 1238. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.
(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7202 et seq.).
(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.
The Secretary shall use $225,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers for the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.
The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts, for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.
(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.
(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the Secretary agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under such section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.
The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 413 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.
The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.
(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to promote activities that promote agriculture. The amount of the grant shall be—
(1) $500,000 to each of the several States; and
(2) $1,000,000 to the Commonwealth of Puerto Rico.
(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $135,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of the specialty crop production in the State in relation to the national value of specialty crop production, as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>$63,320,000</td>
</tr>
<tr>
<td>Florida</td>
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<tr>
<td>Pennsylvania</td>
<td>$980,000</td>
</tr>
<tr>
<td>New Mexico</td>
<td>$900,000</td>
</tr>
</tbody>
</table>

(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $690,000.
(23) Nebraska, $690,000.
(24) Massachusetts, $660,000.
(25) Virginia, $620,000.
(26) Maryland, $560,000.
(27) Louisiana, $490,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $390,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $100,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIAL CROP PRIORITY.—As a condition on the receipt of a grant under this section, each State shall use the funds to give priority to the support of specialty crops in the use of the grant funds.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.
The Secretary shall make $13,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the promotion, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDENNITY PAYMENTS FOR COTTON PRODUCERS.
(a) CONDITIONS ON PAYMENTS TO STATE.—Subject to paragraph (b) of section 1211 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 1211 of division D of Public Law 105-277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387; 114 Stat. 1549A–42), is amended to read as follows:

(1) the amount of any duplicate payment the recipient otherwise receives for such loss of cotton, or the loss of proceeds from the sale of cotton, to the payment from the indemnity fund; and
(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise receives for such loss of cotton, or the loss of proceeds from the sale of cotton, to the payment from the indemnity fund; and

(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments."
SEC. 12. REGULATIONS.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES REQUIRED BY THIS ACT.

The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAI R PAYMENT.

The Secretary shall use $18,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-287), to producers of wool and producers of Mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.
(a) Conditions on Payments to State.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as contained in sections 101(a) and 102(a) of division A of Public Law 106-277 (7 U.S.C. 1421 note), and as amended by section 704 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-314; 114 Stat. 1549A-42), is amended to read as follows:

(b) Conditions on Payment to State.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) allocates $5,266,500,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2001, (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

(2) requires the recipient of a payment from the indemnity fund to pay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise receives for such loss of cotton, of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

(3) agrees to deposit in the indemnity fund any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(c) Additional Disbursements from the Indemnity Fund.—Subsection (d) of such section is amended to read as follows:

(d) Additional Disbursements from Cotton Ginneries.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia as provided in subsection (a) (including any duplicate payment, if any, paid by the Secretary of Agriculture to the ginner, and the amount of the payment from the indemnity fund and the amounts of any duplicate payments the recipient otherwise receives), and the amounts expended as compensation to cotton producers (as defined in and provided in subsection (b) of this section to reflect the amount made available for payments under this section to the extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible to receive the final payment under 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owner or producer for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(e) Additional Disbursements from the Indemnity Fund.—The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 292 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

4. Supplemental Peanut Payment. The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 292(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

5. Supplemental Wool and Mohair Pay ment. The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-314), to growers of wool and producers of mohair, for the 2000 crop year that received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

6. Supplemental Cottonseed Assistance. The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible producers of the 2000 crop of cottonseed that previously received assistance under such section.
the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—
(1) $500,000 to each of the several States; and
(2) $1,000,000 to the Commonwealth of Puerto Rico.
(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State to the national value of specialty crop production, as follows:
(1) California, $63,320,000.
(2) Florida, $56,000,000.
(3) Washington, $3,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,530,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000.
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,260,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) Alaska, $700,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) West Virginia, $800,000.
(21) Ohio, $800,000.
(22) Indiana, $650,000.
(23) Nebraska, $650,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $540,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $440,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $380,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $69,000.
(48) South Dakota, $50,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.
(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.
(d) SPECIALTY CROP DEFINED.—In this section, the term ‘specialty crop’ means any agricultural commodity (except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco).
SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.
(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.
The Secretary shall use $15,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.
The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1301 note), to cotton producers, to provide assistance to cotton producers in the States of Arkansas, Colorado, Kansas, Mississippi, Missouri, Oklahoma, Texas, and Virginia for the 2001 crop year.

SEC. 7. SPECIALTY CROPS.
(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

- $500,000 to each of the several States;

- $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $131,400,000 of funds of the Commodity Credit Corporation to make grants to the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

- California, $63,320,000;

- Florida, $15,980,000;

- Georgia, $15,810,000;

- Idaho, $3,670,000;

- Arizona, $3,830,000;

- Michigan, $3,250,000;

- Oregon, $3,220,000;

- Texas, $2,730,000;

- New York, $2,660,000;

- Nebraska, $2,660,000;

- Wisconsin, $2,570,000;

- North Carolina, $1,540,000;

- Colorado, $1,510,000.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.
The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and marketing of commodities provided under section 204(a) of the Emergency Food Assistance Act of 1985 (7 U.S.C. 7506(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.
(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1211 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277 (7 U.S.C. 1421 note)), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387; 114 Stat. 1589A-42), is amended to read as follows:

"(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State of Georgia requests that the payment be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended on October 1, 2001, shall be deemed to be unexpended, and the authority provided by this Act to expend such funds is rescinded effective on that date.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.
Notwithstanding section 101(2) of the Food Security Act of 1985 (7 U.S.C. 1301(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more commodities under Title I of such Act for the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TERMINATION OF AND LIMITATION ON EXPENDITURES.
(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended on October 1, 2001, shall be deemed to be unexpended, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.
(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to:

- (1) the notice and comment provisions of section 553 of title 5, United States Code;
The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of first-handers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $34,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds previously received a payment under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $260,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $135,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $83,220,000.
(2) Florida, $15,880,000.
(3) Washington, $5,400,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,220,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $1,780,000.
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) Nebraska, $1,300,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $890,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $750,000.
(23) Nebraska, $620,000.
(24) Massachusetts, $610,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $390,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $280,000.
(35) Kansas, $210,000.

The Secretary shall use $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 101(a) of division A of Public Law 105-277 (7 U.S.C. 1701xj note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (enacted by Public Law 106-387; 114 Stat. 1549A–42), is amended to read as follows:

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) agrees to deposit in the indemnity fund collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments;

and (2) any additional disbursement from the indemnity fund, after the provision of compensation to cotton producers as provided in such subsection;
“(A) the business failure of any cotton buyer doing business in Georgia; or

“(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in the State of Georgia; and

“(2) paid cotton producers the amount which the ginner had agreed to pay for such cotton received from such cotton producers and

“(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.”

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking, “Upon enactment,” and inserting “The”.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308b(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be eligible for in respect of any contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7261 et seq.) during the 2001 crop year may not exceed $5,500,000,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpended, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount made available under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the enactment date.

(2) EXCEPTION.—Section (1) shall become effective one day after the date of enactment.

SA 1243. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1243, to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 1244. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 1245. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 1246. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLe — CONSERVATION

SEC. 01. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714(a)), in addition to amounts made available under sections 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for the purchase of noncropland acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), of which $500,000 shall be set aside for the Forum Francophone Des Agriculteurs des Caraibes et des Antilles (French-speaking regions of the Caribbean). The Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3833a et seq.), of which $500,000 shall be set aside for the Forum Francophone Des Agriculteurs des Caraibes et des Antilles (French-speaking regions of the Caribbean).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714(a)), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 03. ENVIRONMENTAL QUALITY INCENTIVE PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3861), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3833a et seq.).

SEC. 04. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3833a(c)), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 05. FARMER PROTECTED PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the
Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 1520 note; Public Law 106–224), to provide assistance under subsection (a) that have not been obligated by subsection (d).

SECTION 102. OILSEEDS.

The Secretary shall use $1,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of the 2001 crop of cottonseed that received a payment under that section.

SECTION 103. PEANUTS.

The Secretary shall use $1,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of the 2001 crop of peanuts that received a payment under that section.

SECTION 104. SUGAR.

(a) MARKETING ASSESSMENT.—Section 156(f) of the Agricultural Market Access Act of 2002 (7 U.S.C. 1737f) shall not apply with respect to the 2001 crop of sugar beets and sugar beets.


(1) the Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets is processed, on an aggregate basis by cooperative;

(2) the Secretary shall make the quality loss payments to a cooperative for distribut- ing the cooperative market price assistance to the affected sugar beets.

(3) the amount of a quality loss, regardless of whether the sugar beets is processed, shall be equal to the difference between—

(a) the average per unit payment that the producers on the farm would have received for the crop from the cooperative if the crop had not suffered a quality loss; and

(b) the average per unit payment that the producers on the farm received from the cooperative for the affected sugar beets.

SECTION 105. HONEY.

(a) NONRECOURSE MARKETING ASSISTANCE LOANS.—

(1) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make nonrecourse marketing assistance loans available to producers of the 2001 crop of honey.
(2) LOAN RATE.—The loan rate for a marketing assistance loan under paragraph (1) for honey shall be 65 cents per pound.

(3) REPAYMENT RATE.—The Secretary shall permit producers to repay a marketing assistance nonrecourse loan under paragraph (1) at a rate that is the lesser of—

(A) the loan rate for honey, plus interest as determined by the Secretary; or

(B) the prevailing domestic market price for honey, as determined by the Secretary.

(b) LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—The Secretary may make loan deficiency payments available to any producer of honey that, although eligible to obtain a marketing assistance loan under subsection (a), chooses to forgo obtaining the loan in return for a payment under this subsection.

(2) AMOUNT.—A loan deficiency payment under this subsection shall be determined by multiplying—

(A) the loan payment rate determined under paragraph (3); by

(B) the quantity of honey that the producer is eligible to place under loan, but for which the producer forgoes obtaining the loan in return for a payment under this subsection.

(c) LIMITATIONS.—

(1) IN GENERAL.—The marketing assistance loan gains and loan deficiency payments that a person may receive for the 2001 crop of honey outstanding on the date of enactment of this Act to non-recourse marketing assistance loans under subsection (a), (A) the number of acres planted to the type of crop by the owners and producers on the farm during the 2001 crop year, and (B) the rate at which a loan may be repaid under subsection (a)(3).

(d) CONVERSION OF RECOURSE LOANS.—In order to provide an orderly transition to the loans and payments provided under this section, the Secretary shall convert recourse loans for the 2001 crop of honey outstanding on the date of enactment of this Act to non-recourse marketing assistance loans under subsection (a).

(e) LIMITATIONS.—

(1) IN GENERAL.—The marketing assistance loan gains and loan deficiency payments received by producers of the same crop of other agricultural commodities.

(2) FORFEITURES.—The Secretary shall carry out this section in such a manner as to minimize forfeitures of honey marketing assistance loans.

(f) TRANSITION ASSISTANCE.—In the case of a producer that marketed or redeemed, before January 1, 2002, any of the honey plantings under subsection (a) of this section, the producer shall be eligible to receive a payment from the Secretary under this section in an amount equal to the payment or gain that the producer would have received for that quantity of eligible production as of the date on which the producer lost beneficial interest in the quantity or redeemed the quantity, as determined by the Secretary.

SEC. 106. COTTONSEED.

The Secretary shall use $15,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers of the first handlers of the 2001 crop of cottonseeds.

SEC. 107. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $110,500,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, limes, melons, onions, peaches (including freestone), pears, potatoes (summer and fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASING.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASING AND DISTRIBUTION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities and distribute them under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755a) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 108. LOAN DEFICIENCY PAYMENTS.

Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking ‘‘2001’’ each place it appears in subsections (b)(4) and (h) and inserting ‘‘2002’’.

SEC. 109. MILK.

(a) EXTENSION OF MILK PRICE SUPPORT PROGRAM.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7235) is amended by striking ‘‘2001’’ and inserting ‘‘2002’’.

(b) REPEAL OF RECIPE MILK PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7236) is repealed.

SEC. 110. PULSE CROPS.

(a) IN GENERAL.—The Secretary shall use $20,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that grow dry peas, lentils, or chickpeas (collectively referred to in this section as a ‘‘pulse crop’’).

(b) COMPUTATION.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary; by

(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c).

(c) ACREAGE.—

(1) IN GENERAL.—The acreage of the producers on the farm for a pulse crop under subsection (b)(2) shall be equal to the number of acres planted to the pulse crop by the owners and producers on the farm during the 1996, 1999, or 2000 crop year, whichever is greatest.

(2) BASIS.—For the purpose of paragraph (1), the number of acres planted Commodity Credit Corporation to the pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary) —

(A) the number of acres planted to the pulse crop for the crop year, as reported to the Secretary by the owners and producers on the farm, including any acreage that is included in reports that are filed late; or

(B) the number of acres planted to the pulse crop for the crop year for the purpose of determining Federal crop insurance premium subsidies established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 111. APPLES.

(a) TECHNICAL ASSISTANCE.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of marketing during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) LIMITATION.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 711), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 123(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(b)(1)), an operator of a contract that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during calendar year 2001, not more than $600,000,000 shall be used by the Secretary to make payments to producers that are eligible for incentive payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(b)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(b)(4)(B)) is amended by inserting ‘‘(which may include emerging vegetation in water)’’ after ‘‘vegetative cover’’.

(2) LIMITATION.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting
“(which may include emerging vegetation in water)” after “vegetative cover”.

**SEC. 202. WETLANDS RESERVE PROGRAM.** (a) MAXIMUM ENROLLMENT.—Notwithstanding section 1230(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1991 (114 Stat. 1549, 1549A-52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation to carry out the wetlands reserve program established under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for lands enrolled under the wetlands reserve program as of the date of enactment of this Act.

**SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.** In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

**SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.** In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3863a(c)), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 307 of title I of chapter 1 of subchapter C of chapter 4 of title XII of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3839aa et seq.).

**SEC. 205. FARMLAND PROTECTION PROGRAM.** (a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3863c note; Public Law 104-127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3871 note; Public Law 106-72), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government; or

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(b)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; (C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use the minimum amount each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) PROGRAMS.—For the purpose of subsection (a), the programs specified in this section—

(1) the wetlands reserve program established under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3839a); and

(4) the farmland protection program established under chapter 1 of subchapter C of chapter 4 of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

**SEC. 301. FARM ENERGY EMERGENCY LOANS.** (a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a) is amended—

(1) in the first sentence, by striking “$5,000,000” and inserting “$15,000,000”;

(2) in the second sentence, by striking “the Disaster Relief and Emergency Assistance Act” and inserting “the Robert T. Stafford Disaster Relief and Emergency Assistance Act”;

(3) by striking “and” and inserting “, and”;

(4) in the third sentence, by striking “the Secretary shall make to any eligible community for any clean energy project, including the provision of energy efficiency services and energy conservation measures” and inserting “the Secretary shall make to any eligible community for any clean energy project, including the provision of energy efficiency services and energy conservation measures”;

(5) in the fourth sentence, by striking “$5,000,000” and inserting “$15,000,000”;

(6) in the fourth sentence, by striking “the Emergency Assistance Act” and inserting “the Emergency Assistance Act, the Energy Security Act of 2005 (which may include emerging vegetation in wildlife habitat, aquaculture operations, and any other agricultural activity)”;

(7) by adding the following new sentence: “The Secretary shall make to any eligible community for any clean energy project, including the provision of energy efficiency services and energy conservation measures.”

**TITLE III—CREDIT AND RURAL DEVELOPMENT**

**Subtitle A—Credit**

**SEC. 303. FARM ENERGY EMERGENCY LOANS.** (a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a) is amended—

(1) in the first sentence, by striking “$5,000,000” and inserting “$15,000,000”;

(2) in the second sentence, by striking “the Disaster Relief and Emergency Assistance Act” and inserting “the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”;

(3) in the third sentence, by striking “and” and inserting “, and”;

(4) in the fourth sentence, by striking “the Emergency Assistance Act” and inserting “the Emergency Assistance Act, the Energy Security Act of 2005”;

(5) by striking “in the area” and inserting “in any area”; and

(6) by inserting “or declaring” after “emergency designation”.

(b) FUNDING.—Funds available for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be used to carry out the amendments made by subsection (a).
(C) any crop disaster program established for the 2001 crop year;
(D) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);
(E) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);
(F) any emergency watershed protection program or Federal easement program that prohibits, prohibits or greening; or
(G) any other Federal or State water storag


e program, as determined by the Secretary.
(b) COMPENSATION.—The Secretary shall use not more than $24,000,000 of funds of the Commodity Credit Corporation to compensate producers with covered land for losses from long-term flooding.
(c) PAYMENT RATE.—The payment rate for compensation provided to a producer under this section shall be equal to the average compensation provided to a producer under section 808 of title 5, United States Code (7 U.S.C. 1308(5)) under this section.

SEC. 501. OBLIGATION PERIOD.
(a) IN GENERAL.—Notwithstanding subject to otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate to, and, to the maximum extent practicable, disburse funds during fiscal year 2002 to carry out this Act and the amendments made by this Act.
(b) AVAILABILITY.—Funds described in subsection (a) shall remain available until expended.

SEC. 502. COMMODITY CREDIT CORPORATION.

(a) The Commodity Credit Corporation, pursuant to this Act, shall implement the program under this section; the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act and the amendments made by this Act.
(b) The program provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act and the amendments made by this Act.
(c) REGULATIONS.—In implementing this Act, the Secretary shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(c) The Secretary shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.
(d) PROCEDURE.—The promulgation of the regulations and administration of the amendments as made by this Act shall be made without regard to—
(1) the notice and comment provisions of section 553 of title 5, United States Code;
(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and
(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act” of 1980).

(c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 804 of title 5, United States Code.

SA 1248. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended—
(1) in the matter preceding paragraph (1), by inserting “New York,” after “New Hampshire,”;
(2) by striking paragraphs (1) and (7); and
(3) in paragraph (5), by striking “Class II” and inserting “Class IV”;
(4) by striking paragraph (3) and inserting the following:
“(3) Definition.—Consent for the Northeast Interstate Dairy Compact shall terminate on—
(A) in the case of States other than New York, September 30, 2011; and
(B) in the case of New York, September 30, 2004.”;
(5) in paragraph (4), by striking “New York.”;
(6) in paragraph (5), by striking “the projected rate of increase” and all that follows through “Secretary” and inserting “the operation of the Compact price regulation during the fiscal year, as determined by the Secretary in consultation with the Commission”;
(7) in paragraph (6), by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1249. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking “2001” and inserting “2004”.

SA 1250. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking “2004” and inserting “2006”.

SA 1251. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking “2001” and inserting “2006”.

SA 1252. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Maryland,” after “Maine,”;
(2) in paragraph (3), by striking “2001” and inserting “2004”;
(3) in paragraph (4), by striking “Maryland.”;
(4) by inserting “Pennsylvania,” after “New Hampshire.”;

SA 1254. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Pennsylvania,” after “New Hampshire.”;
(2) in paragraph (3), by striking “2001” and inserting “2004”;
(3) in paragraph (4), by striking “Pennsylvania.”;

SA 1255. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Delaware,” after “Connecticut.”;
(2) in paragraph (3), by striking “2001” and inserting “2004”;
(3) in paragraph (4), by striking “Delaware.”;

SA 1256. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “New Jersey,” after “New Hampshire,”;
(2) in paragraph (3), by striking “2001” and inserting “2004”; and
(3) in paragraph (4), by striking “New Jersey.”.

SA 1257. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) by striking paragraphs (1), (3), and (7);
(2) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;
(3) in paragraph (5), by striking “the projected rate of increase” and all that follows through “Secretary” and inserting “the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code”;
(4) by redesigning paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1258. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “New Jersey,” after “New Hampshire,”;
(2) in paragraph (3), by striking “2001” and inserting “2006”; and
(3) in paragraph (4), by striking “New Jersey.”.

SA 1260. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “New Jersey,” after “New Hampshire,”;
(2) in paragraph (3), by striking “2001” and inserting “2006”; and
(3) in paragraph (4), by striking “New Jersey.”.

SA 1261. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “New Jersey,” after “New Hampshire,”;
(2) by striking paragraphs (1) and (7);
(3) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;
(4) by striking paragraph (3) and inserting the following:

“(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

“(A) in the case of States other than New York, September 30, 2011; and

“(B) in the case of New York, September 30, 2006;”;

(5) in paragraph (4), by striking “New York.”;

(6) in paragraph (5), by striking “the projected rate of increase” and all that follows through “Secretary” and inserting “the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code”;

(7) by redesigning paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1262. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Delaware,” after “Connecticut,”;
(2) in paragraph (5), by striking “2001” and inserting “2006”; and

SA 1263. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Delaware,” after “Connecticut,”;
(2) in paragraph (5), by striking “2001” and inserting “2006”; and

SA 1264. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “Maryland,” after “Maine,”;
(2) in paragraph (3), by striking “2001” and inserting “2006”; and

SA 1265. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—
(1) in the matter preceding paragraph (1), by inserting “New York,” after “New Hampshire,”;

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;

(4) by striking paragraph (3) and inserting the following:

“(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

“(A) in the case of States other than New York, September 30, 2011; and

“(B) in the case of New York, September 30, 2004;”;

(5) in paragraph (4), by striking “New York.”;

(6) in paragraph (5), by striking “the projected rate of increase” and all that follows through “Secretary” and inserting “the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code”;

(7) by redesigning paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1266. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to

versely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:
the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting “New York,” after “New Hampshire,”;
(2) by striking paragraphs (1) and (7);
(3) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;
(4) by striking paragraph (3), by striking “2001” and inserting “2006”; and
(5) in paragraph (4), by striking “New York.”.

SA 1267. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting “New York,” after “New Hampshire,”;
(2) by striking paragraphs (1) and (7);
(3) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;
(4) in paragraph (3), by striking “2001” and inserting “2006”;
(5) in paragraph (4), by striking “New York.”.

SA 1267. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting “New York,” after “New Hampshire,”;
(2) by striking paragraphs (1) and (7);
(3) in paragraph (2), by striking “Class III-A” and inserting “Class IV”;
(4) by striking paragraph (3) and inserting the following:

“(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on

(A) in the case of States other than New York, September 30, 2011; and

(B) in the case of New York, September 30, 2004;”;
(5) in paragraph (4), by striking “New York.”;
(6) in paragraph (5), by striking “the projected rate of increase” and all that follows through “Secretary” and inserting “the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (paragraph (2), by striking the Com- mission) using notice and comment procedures provided in section 533 of title 5, United States Code”; and
(7) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respect- ively.

SA 1268. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. CERTIFICATION AND LABELING OF ORGANIC WILD SEAFOOD.

(a) EXCLUSIVE AUTHORITY OF SECRETARY OF COMMERCE.—The Secretary of Commerce shall have exclusive authority to provide for the certification and labeling of wild seafood as organic wild seafood.

(b) RELATIONSHIP TO OTHER LAW.—The cer- tification and labeling of wild seafood as organic wild seafood shall not be subject to the provisions of the Organic Foods Production Act of 1990 (title XXI of Public Law 101-624; 104 Stat. 3935; 7 U.S.C. 6501 et seq.).

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Com- merce shall prescribe regulations for the cer- tification and labeling of wild seafood as organic wild seafood.

(2) CONSIDERATIONS.—In prescribing the regulations, the Secretary—

(A) may take into consideration as guid- ance, to the extent practicable, the pro- visions of the Organic Foods Production Act of 1990 and the regulations prescribed in the ad- ministration of that Act; and

(B) shall accommodate the nature of the commercial harvesting and processing of wild fish in the United States.

(3) TIME FOR INITIAL IMPLEMENTATION.—The Secretary shall prescribe the initial regu- lations to carry out this section not later than one year after the date of the enact- ment of this Act.

SA 1269. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the fol- lowing:

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

(a) Assistance Authorized.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) shall, to the maximum extent practicable, use $4,622,240,000 of funds made available to owners and producers on a farm that previously received a payment under section 224; 7 U.S.C. 1421 note) to producers of quota peanuts or addi- tional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

(b) Grants for Value of Production.—The Secretary shall make a grant to each of the several States in the amount made available for payments under such section.

Sec. 7. SPECIAL CROPS.

(a) Base Year Grants.—The Secretary shall use $35,700,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puer- to Rico.

(b) Grants for Value of Production.—The Secretary shall use $138,900,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of specialty crop sales of the several States in the United States in relation to the national value of specialty crop production, as follows:
SEC. 9. TECHNICAL CORRECTION REGARDING IN-DEMNITY FUNDS.—(d) SPECIALTY CROP DEFINED.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1211 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as amended by Public Law 106-277 (7 U.S.C. 1421 note)) shall be excepted as a condition.

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund, as provided in section 204(a) of the Agricultural Risk Protection Act of 2000 (as amended by Public Law 107-118), to provide for the indemnity fund, to repay the State of Georgia under subsection (a) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

(2) satisfies the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia, to compensate cotton ginner as defined and provided in such section that—

(1) incurred a loss as the result of—

(A) the business failure of any cotton buyer doing business in Georgia; or

(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer doing business in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia.

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

‘‘(d) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a), for deposit in the indemnity fund, to the extent of such payments.‘‘

(c) EFFECTIVE DATE.—Subsection (b) shall become effective one day after the date of enactment.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS RE- GARDLESS OF DEBT OR DEFICIENCY PAY- MENTS AND MARKETING LOAN GAINS.

(a) AMOUNT.—The amount of assistance available to producers of peanuts for the 2000 crop year that previously received a payment under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) shall be increased by the Secretary and the Commodity Credit Corporation to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(b) EXCLUSION.—Payments to producers of peanuts for the 2000 crop year that previously received a payment under the Agricultural Market Transition Act shall be excluded

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be returned to the Commodity Credit Corporation.

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13601), relating to notice of proposed rulemaking and public participation in rulemaking;

and

(3) chapter 35 of title 44, United States Code (commonly known as the ‘‘Paperwork Reduction Act’’).
Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible cotton producers, as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $200,000,000 of funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in such section), to compensate cotton ginner claims (as defined and provided in such section).

(1) Incurred a loss as the result of—
   (A) the business failure of any cotton buyer doing business in Georgia; or
   (B) the failure or refusal of such cotton buyer to pay the contracted price that had been agreed upon by the ginners and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginners from cotton producers in Georgia;

   (2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

   (3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

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“(d) ADDITIONAL DISBURSEMENT FROM COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in such section), to compensate cotton ginner claims (as defined and provided in such section) that—

   (1) incurred a loss as the result of—

   (A) the business failure of any cotton buyer doing business in Georgia; or

   (B) the failure or refusal of such cotton buyer to pay the contracted price that had been agreed upon by the ginners and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginners from cotton producers in Georgia;

   (2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

   (3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.”

SECTION 10. INCREASE IN PAYMENT LIMITATIONS REGARDING COMMODITY, MARKETING LOAN, AND COTTON Female Assistance Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 1308(1)), and the Food Security Act of 1985 (7 U.S.C. 1308(1)), is amended as follows:

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be returned to the authority provided by this Act to expend such funds and rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $3,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SECTION 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

   (1) the notice and comment provisions of section 553 of title 5, United States Code;

   (2) the State of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13801), relating to notice of proposed rulemaking and public participation in rulemaking; and

   (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall have the authority provided under section 808 of title 5, United States Code.
SA 1272 Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) Assistance Authorized.—The Secretary of Agriculture (referred to in this Act as the ‘Secretary’) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) Amount.—The amount of assistance made under paragraph (a) to producers on a farm under that section shall be proportionate to the amount of the total contract payments received by the owners and producers on a farm under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

(a) Supplementation Payment.—The Secretary shall use $25,510,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

(b) Addition to Payment.—The Secretary shall use $25,510,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of oilseeds that previously received assistance under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

(a) Prior Payment.—The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of peanuts that previously received a payment under such section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Prior Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section.

(b) Special Rule for Georgia.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food, and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUBVERSIVE COTTONSEED ASSISTANCE.

The Secretary shall use $34,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of cottonseed that previously received a payment under the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

1. $500,000 to each of the several States; and

2. $1,900,000 to the Commonwealth of Puerto Rico.

SEC. 7. SPECIALTY CROPS.

(a) Base State Grants.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

1. California, $6,320,000.

2. Florida, $15,860,000.

3. Washington, $9,610,000.

4. Idaho, $3,670,000.

5. Arizona, $3,430,000.

6. Michigan, $3,250,000.

7. Oregon, $3,250,000.

8. Georgia, $2,730,000.

9. Texas, $2,660,000.

10. New York, $2,660,000.

11. Wisconsin, $2,570,000.

12. North Carolina, $1,540,000.

13. Colorado, $1,510,000.

14. North Dakota, $1,380,000.

15. Minnesota, $1,320,000.

16. Hawaii, $1,150,000.

17. New Jersey, $1,100,000.

18. Pennsylvania, $980,000.

19. New Mexico, $900,000.

20. Maine, $880,000.

21. Ohio, $800,000.

22. Indiana, $660,000.

23. Nebraska, $600,000.

24. Massachusetts, $600,000.

25. Virginia, $620,000.

26. Maryland, $500,000.

27. Louisiana, $440,000.

28. South Carolina, $440,000.

29. Tennessee, $400,000.

30. Illinois, $400,000.

31. Oklahoma, $350,000.

32. Alabama, $300,000.

33. Delaware, $290,000.

34. Mississippi, $250,000.

35. Kansas, $210,000.

36. Arkansas, $210,000.

37. Missouri, $210,000.

38. Connecticut, $180,000.


40. Montana, $140,000.

41. New Hampshire, $120,000.

42. Nevada, $120,000.

43. Vermont, $120,000.

44. Iowa, $100,000.

45. West Virginia, $90,000.

46. Wyoming, $70,000.

47. Colorado, $40,000.

48. South Dakota, $40,000.

49. Rhode Island, $40,000.

50. Alaska, $20,000.

(b) Specialty Crop Priority.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to specialty crops in the use of the grant funds.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of the crops to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1988 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDENMY PAYMENTS FOR COTTON PRODUCERS.

(a) Conditions on Payments to State.—Subsection (b) of section 1211 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277 (7 U.S.C. 7154 note)), as any section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Division G of Public Law 106-114 Stat. 1549–42), is amended to read as follows:

(b) Conditions on Payment to State.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

1. contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

2. agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(b) Additional Disbursements from the Indemnity Fund.—Subsection (d) of such section is amended to read as follows:

(d) Additional Disbursements to Cotton Ginders.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 1549 of chapter 19 of title 21 of the Code of Georgia), to compensate cotton giners (as defined and provided in such subsection) that—

1. incurred a loss as the result of—

(A) the failure of any cotton buyer doing business in Georgia; or

(B) the failure or refusal of such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997; which had been purchased or contracted by the ginner from cotton producers in Georgia;

2. paid cotton producers the amount with respect to the cotton received from such cotton producers in Georgia; and
“(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

(c) APPLICABLE AMENDMENT.—Subsection (c) of such section is amended by striking—

“Upon the establishment of the indemnity fund, and not later than October 1, 1999, the Corporation, as appropriate, shall promulgate regulations and administration of this Act shall be made without regard to—

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) $1,000,000 to the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $61,200,000.

(2) Florida, $16,860,000.

(3) Washington, $9,610,000.

(4) Idaho, $3,070,000.

(5) Arizona, $3,430,000.

(6) Michigan, $3,250,000.

(7) Oregon, $3,320,000.

(8) Georgia, $2,739,000.

(9) Texas, $2,660,000.

(10) New York, $2,660,000.

(11) Wisconsin, $2,570,000.

(12) North Carolina, $1,540,000.

(13) Colorado, $1,510,000.

(14) North Dakota, $1,380,000.

(15) Minnesota, $1,320,000.

(16) Hawaii, $1,150,000.

(17) New Jersey, $1,120,000.

(18) Pennsylvania, $980,000.

(19) New Mexico, $900,000.

(20) Maine, $900,000.

(21) Ohio, $800,000.

(22) Indiana, $660,000.

(23) Nebraska, $400,000.

(24) Massachusetts, $460,000.

(25) Virginia, $620,000.

(26) Maryland, $500,000.

(27) Louisiana, $460,000.

(28) South Carolina, $440,000.

(29) Tennessee, $400,000.

(30) Illinois, $400,000.

(31) Oklahoma, $390,000.

(32) Alabama, $370,000.

(33) Delaware, $290,000.

(34) Mississippi, $250,000.

(35) Kansas, $210,000.

(36) Arkansas, $210,000.

(37) Missouri, $210,000.

(38) Connecticut, $180,000.

(39) Utah, $140,000.

(40) Montana, $140,000.

(41) New Hampshire, $120,000.

(42) Nevada, $120,000.

(43) Vermont, $120,000.

(44) Iowa, $100,000.

(45) West Virginia, $90,000.

(46) Wyoming, $70,000.

(47) Kentucky, $60,000.

(48) South Dakota, $40,000.

(49) Rhode Island, $40,000.

(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘‘specialty crop’’ means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use the authority provided by the Commodity Credit Corporation to make grants to the several States and the Commonwealth of

SEC. 9. TECHNICAL CORRECTION REGARDING IN-DEMNY PAYMENTS FOR COTTON PRODUCERS.

(a) CONVERSION OF PAYMENTS TO STATE.—Subsection (b) of section 1212 of the Agriculture, Rural Development, Food and Drug
Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277 (7 U.S.C. 1421 note), and as amended by section 1(n) of the Consumer Financial Protection Act of 2010 (15 U.S.C. 7101 et seq.), to be read as follows:

"(1) $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or if administratively practicable thereafter), to provide compensation to cotton producers as provided in this subsection;

"(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

"(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims".

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking "$500,000" and inserting the following:

"$5,000,000 to each of the several States;".

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 101(2) of the Food Security Act of 1985 (7 U.S.C. 1303(b)), the total amount of the payments specified in section 101(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $5,000,000,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures under this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended on October 1, 2001, shall be deemed to be unexpended, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures required by this Act that would result in expenditures exceed such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

"(1) the notice and comment provisions of section 553 of title 5, United States Code;

"(2) the notice and comment provisions of section 601(a) of the Commodity Credit Corporation Charter Act (7 U.S.C. 814 note); and

"(3) the provisions of section 553(a) of title 5, United States Code, with respect to notice and comment on regulations; and

"(4) the provisions of section 801 of title 5, United States Code, with respect to notice and comment on regulations.

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended by striking.

"(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use the sum of $13,000,000 to make payments at the same rate, or subsequently, to the same persons on the table; as follows:

(1) New York, $2,660,000.

(2) Florida, $16,860,000.

(3) Washington, $9,610,000.

(4) Idaho, $3,670,000.

(5) Arizona, $3,430,000.

(6) Michigan, $3,250,000.

(7) Oregon, $3,220,000.

(8) Georgia, $2,730,000.

(9) Texas, $2,660,000.

(10) New York, $2,660,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $890,000.
(19) New York, $880,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Louisiana, $650,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Michigan, $500,000.
(28) South Carolina, $490,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Missisippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $110,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $40,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $40,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘specialty crop’ means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SECTION 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1985 (7 U.S.C. 7388(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITION ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–386; 114 Stat. 1549A–42), is amended to read as follows:

"(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—"

"(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practicable thereafter), in accordance with compensation to cotton producers as provided in such subsection;"

"(2) requires the recipient of a payment from the indemnity fund to repay the State, for the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and"

"(3) agrees to deposit in the indemnity fund the portion of any proceeds collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

"(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims).

(1) incurred a loss as a result of—"

"(A) the bonding failure of any cotton buyer doing business in Georgia; or"

"(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted for by the ginner from cotton producers in Georgia;"

"(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and"

"(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking:"

"Upon the expiration of the indemnity fund, and not later than October 1, 1999, the" and inserting:"

"The".

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 191(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1301(b)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be eligible for is limited to or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $5,000,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a prorata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures under this Act shall be made not later than October 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be returned to the Commodity Credit Corporation, as authorized by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount of payments made under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a prorata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROPOSAL.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to provisions of section 553 of title 5, United States Code;

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ‘‘Paperwork Reduction Act’’).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this subsection shall become effective one day after the date of enactment.

(2) EXCEPTION.—Section (5) shall become effective one day after the date of enactment.

SA 1275. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; such an amendment was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE. —

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ‘‘Secretary’’) shall, to the maximum extent practicable, use $1,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 204 of the Agricultural Risk Protection Act of 2000 (Public Law 2006–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 2006–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 2006–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) who previously received a payment under such section.
time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000 (as enacted by Public Law 106-224; 7 U.S.C. 1421 note) to producers and first-handlers of the commodity, or to eligible recipient agencies. The grants shall be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7006). SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE. The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(a) $500,000 to each of the several States; and

(b) $1,000,000 to the Commonwealth of Puerto Rico.

SEC. 7. SPECIALTY CROPS. (a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.

(2) Florida, $16,860,000.

(3) Texas, $2,660,000.

(4) Arizona, $3,430,000.

(5) Idaho, $3,670,000.

(6) California, $154,040,000.

(7) Oregon, $3,220,000.

(8) Oregon, $140,000.

(9) Arizona, $120,000.

(10) Texas, $1,150,000.

(11) Colorado, $1,150,000.

(12) South Carolina, $3,860,000.

(13) Minnesota, $1,320,000.

(14) Wisconsin, $1,320,000.

(15) Pennsylvania, $800,000.

(16) New Jersey, $1,100,000.

(17) Georgia, $2,730,000.

(18) Idaho, $154,040,000.

(19) Nevada, $120,000.

(20) Vermont, $120,000.

(21) New Hampshire, $120,000.

(22) Alaska, $120,000.

(23) Kansas, $210,000.

(24) Kentucky, $60,000.

(25) West Virginia, $90,000.

(26) Nevada, $120,000.

(27) Missouri, $210,000.

(28) South Carolina, $440,000.

(29) Ohio, $800,000.

(30) Illinois, $400,000.

(31) Oklahoma, $390,000.

(32) Alabama, $300,000.

(33) New York, $2,660,000.

(34) Kansas, $210,000.

(35) Virginia, $620,000.

(36) Alabama, $300,000.

(37) California, $63,320,000.

(38) Idaho, $3,670,000.

(39) Washington, $3,430,000.

(40) Iowa, $154,040,000.

(41) West Virginia, $90,000.

(42) Wyoming, $70,000.

(43) Kentucky, $60,000.

(44) South Dakota, $40,000.

(45) Missouri, $210,000.

(46) Rhode Island, $40,000.

(47) Kentucky, $60,000.

(48) South Dakota, $40,000.

(49) Rhode Island, $40,000.

(50) Alaska, $120,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, the Secretary shall give priority to the support of specialty crops in the use of the grant funds.

(1) SPECIALTY CROP DEFINED.—In this section, the term "specialty crop" means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM. The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7006). Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1301(1)), the total amount of the payments specified in section 101(b) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS. (a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1011 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 401(a) of Division A of Public Law 106-77 (7 U.S.C. 1549A-2), as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-386; 114 Stat. 1549A-42), is amended to read as follows:

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton ginner claims; and

(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposition in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(2) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

(d) ADDITIONAL DISBURSEMENTS TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginner claims (as defined and provided in such section) that—

(1) incurred a loss as the result of—

(A) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia; or

(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the cotton producer for cotton grown in Georgia; or

(2) satisfies the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING COTTON, INSECTICIDES, AND MARKETING PAYMENTS AND MARKETING LOAN GAINS. (a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS. (a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 18301), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall take the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXEMPTION.—Section 6 shall become effective one day after the date of enactment.

SA 1276. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to the continuing economic crisis adversely affecting American agricultural producers, which was ordered to lie on the table; as follows:
Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ‘Secretary’) shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that is eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $425,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $229,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to eligible tobacco growers (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under such section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAI PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-367), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $132,400,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote the specialty crops. The amount of the grant shall be:

(1) $500,000 to each of the several States; and
(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>$63,320,000</td>
</tr>
<tr>
<td>Florida</td>
<td>$16,960,000</td>
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<tr>
<td>Washington</td>
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<td>Virginia</td>
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<td>Maryland</td>
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<td>Louisiana</td>
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<td>South Carolina</td>
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<td>Tennessee</td>
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<td>Illinois</td>
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<td>Oklahoma</td>
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<td>Alabama</td>
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<td>Vermont</td>
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<td>Iowa</td>
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<tr>
<td>West Virginia</td>
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<td>Wyoming</td>
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<td>Kentucky</td>
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<td>Rhode Island</td>
<td>$40,000</td>
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<tr>
<td>Alaska</td>
<td>$20,000</td>
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</tbody>
</table>

(c) SPECIALTY CROP PRIORITIES.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(Sec. 6)
in section 101(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURE OF FUNDS.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds not made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture (referred to in this Act as the Secretary) shall, to the maximum extent practicable, use $4,622,240,000 of funds made available by this Act and remaining unexpended by October 1, 2001, to promulgate regulations as are necessary to implement this Act and the amendments made by this Act.

(b) COMPLIANCE WITH REGULATIONS.—The Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act.

(c) EFFECTIVE DATE.—As soon as practicable after the date of the enactment of this Act, the Secretary shall, to the maximum extent practicable, use $4,622,240,000 of funds made available by this Act and remaining unexpended by October 1, 2001, to promulgate regulations as are necessary to implement this Act and the amendments made by this Act.

(d) RULEMAKING.—In carrying out this section, the Secretary shall ensure that regulations issued to implement this Act are promulgated in conformance with the Paperwork Reduction Act, 44 U.S.C. 3506, et seq.

SEC. 13. TECHNICAL CORRECTION REGARDING INCENTIVE FOOD ASSISTANCE.

The Secretary shall use $11,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of cottonseed that previously received a payment under such section.

SEC. 14. COMMODITY ASSISTANCE PROGRAM.

(a) BASE STATE GRANTS.—The Secretary shall use $225,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

(b) AMOUNT OF ASSISTANCE.—The Secretary shall use $225,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

(b) State grants for value of production.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

1. California, $41,920,000.
2. Florida, $16,980,000.
3. Washington, $9,610,000.

4. Idaho, $3,670,000.
5. Arizona, $3,430,000.
6. Michigan, $3,250,000.
7. Oregon, $3,220,000.
8. Georgia, $2,790,000.
9. Texas, $2,660,000.
10. New York, $2,660,000.
11. Wisconsin, $2,570,000.
12. North Carolina, $1,540,000.
13. Colorado, $1,510,000.
14. North Dakota, $1,380,000.
15. Minnesota, $1,380,000.
16. Hawaii, $1,150,000.
17. New Jersey, $1,100,000.
18. Pennsylvania, $980,000.
19. New Mexico, $900,000.
20. Maine, $890,000.
21. Ohio, $800,000.
22. Indiana, $660,000.
23. Nebraska, $640,000.
24. Massachusetts, $640,000.
25. Virginia, $620,000.
26. Maryland, $500,000.
27. Louisiana, $460,000.
28. South Carolina, $440,000.
29. Tennessee, $400,000.
30. Illinois, $400,000.
31. Oklahoma, $390,000.
32. Alabama, $390,000.
33. Delaware, $290,000.
34. Mississippi, $250,000.
35. Kansas, $210,000.
36. Arkansas, $210,000.
37. Missouri, $210,000.
38. Connecticut, $180,000.
39. Utah, $140,000.
40. Montana, $120,000.
41. New Hampshire, $120,000.
42. Nevada, $120,000.
43. Vermont, $120,000.
44. Iowa, $100,000.
45. West Virginia, $90,000.
46. Wyoming, $70,000.
47. Kentucky, $60,000.
48. South Dakota, $40,000.
49. Rhode Island, $40,000.
50. Alaska, $20,000.
51. SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, the Secretary shall give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘specialty crop’ means any agricultural commodity, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 5706).

SEC. 9. TECHNICAL CORRECTION REGARDING IN-DEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (enacted by Public Law 106-387; 114 Stat. 1476), is amended as follows:

‘‘(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a)(1) of section 754 only if the State—’’

‘‘(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the
SECTION 1. MARKET LOSS ASSISTANCE.

(a) Assistance Authorized.—The Secretary of Agriculture (referred to in this Act as the "Secretary") shall, to the maximum extent practicable, adjust the payment rate specified in section 12(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of quota peanuts or addi-
tional peanuts for the 2000 crop year that previously received a payment under such section.

(b) Annual Amount.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

SECTION 2. SUPPLEMENTAL OILSEED PAYMENTS.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SECTION 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $45,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(c) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under such section.

SECTION 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Supplemental Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) Special Rule for Georgia.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of such payments and any other payments made by the Secretary under this Act to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert—

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Supplemental Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.
In carrying out this section, the term ‘specialty crop’ means any agricultural commodity referred to by the Secretary of Agriculture under section 2013 of the Commodity Credit Corporation Act (7 U.S.C. 703) as including cotton, rice, peanuts, and tobacco. As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 20(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON GINNER CLAIMS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277 (7 U.S.C. 1421 note), and as amended by section 2(f) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-367; 114 Stat. 1546-A1, and inserting "as of July 1, 2000") shall, to the maximum extent practicable, use $4,622,240,000 of funds made available by this Act and requiring that previously received a payment under this section.

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) to include cotton ginner claims upon the establishment of the indemnity fund to repay the State, for the 2000 crop year, the Secretary may make payments under this section to eligible persons in Georgia only if the Secretary may make payments under this section.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘specialty crop’ means any agricultural commodity referred to by the Secretary of Agriculture under section 2013 of the Commodity Credit Corporation Act (7 U.S.C. 703) as including cotton, rice, peanuts, and tobacco.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENT, MARKETING AND MARKET LOAN GAINS.

Notwithstanding section 101(2) of the Food Security Act of 1985 (7 U.S.C. 7072), the Secretary shall adjust the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contracts entered into under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded and shall not be restored.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $150,000.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act to the regulations of the Commodity Credit Corporation. No regulations under this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13807), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act of 1980").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 801 of title 5, United States Code.

(c) EFFECTIVE DATE.—
wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such subsection on a pro rata basis to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 1994 (Public Law 103-123, 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under this section.

SEC. 7. SPECIALTY CROP PRODUCERS.

(a) USE OF GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000, to each of the several States; and

(2) $1,000,000, to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States and the Commonwealth of Puerto Rico to be used to project the price of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

- California, $16,860,000.
- Florida, $16,860,000.
- Washington, $9,610,000.
- Michigan, $2,150,000.
- Ohio, $2,150,000.
- Pennsylvania, $9,610,000.
- West Virginia, $9,610,000.
- Alabama, $300,000.
- Arizona, $3,430,000.
- Arkansas, $2,150,000.
- Georgia, $16,860,000.
- Hawaii, $1,150,000.
- Idaho, $3,670,000.
- Illinois, $3,670,000.
- Indiana, $660,000.
- Iowa, $100,000.
- Kansas, $2,150,000.
- Kentucky, $2,150,000.
- Louisiana, $490,000.
- Maine, $880,000.
- Maryland, $500,000.
- Massachusetts, $140,000.
- Michigan, $3,250,000.
- Minnesota, $1,230,000.
- Mississippi, $2,150,000.
- Missouri, $2,150,000.
- Montana, $1,380,000.
- Nebraska, $660,000.
- Nevada, $120,000.
- New Jersey, $1,100,000.
- New Mexico, $900,000.
- New York, $2,660,000.
- North Carolina, $1,540,000.
- North Dakota, $1,380,000.
- Ohio, $800,000.
- Oklahoma, $2,150,000.
- Oregon, $2,220,000.
- Pennsylvania, $9,610,000.
- Rhode Island, $40,000.
- South Carolina, $440,000.
- South Dakota, $40,000.
- Tennessee, $400,000.
- Texas, $130,000.
- Utah, $140,000.
- Vermont, $120,000.
- Virginia, $800,000.
- Washington, $300,000.
- West Virginia, $9,610,000.
- Wisconsin, $2,570,000.
- Wyoming, $70,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ‘‘specialty crop’’ means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and marketing of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7506(a)).
continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 9, line 7, strike "$16,940,000" and insert "$10,940,000." On page 10, line 3, strike "$220,000,000" and insert "$229,000,000." **SA 1282.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 7, line 4, strike "$55,210,000" and insert "$50,210,000." On page 10, line 3, strike "$220,000,000" and insert "$229,000,000." **SA 1283.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike "$500,000,000" and insert "$460,000,000." On page 24, line 24, strike "$40,000,000" and insert "$80,000,000." **SA 1284.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike "$500,000,000" and insert "$450,000,000." On page 20, line 3, strike "$150,000,000" and insert "$200,000,000." **SA 1289.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike "$500,000,000" and insert "$450,000,000." On page 20, line 3, strike "$150,000,000" and insert "$200,000,000." **SA 1290.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike "$500,000,000" and insert "$400,000,000." On page 20, line 3, strike "$150,000,000" and insert "$250,000,000." **SA 1291.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 45, after line 25, insert the following:

SEC. 604. SUDDEN OAK DEATH SYNDROME CONTROL.
(a) RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(2) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under paragraph (1), the Secretary may—

(A) conduct open space, roadside, and aerial surveys;

(B) provide monitoring technique workshops;

(C) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(D) maintain a geographic information system database;

(E) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(F) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(G) develop and apply treatments.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION.—

(1) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(2) MANAGEMENT.

(A) REGULATION.

(F) FIRE PREVENTION ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) conduct hazard tree assessments;

(B) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(C) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak decline;

(D) treat vegetation to prevent fire, and assessment of fire risk in areas heavily infected with sudden oak death syndrome;

(E) conduct national surveys and inspections of—

(i) commercial rhododendron and blueberry nurseries; and

(ii) native rhododendron and huckleberry plants;

(F) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(G) provide diagnostic services.

(c) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden oak death syndrome.

(2) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturalists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(B) design and maintain a website to provide information on sudden oak death syndrome; and

(C) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

(d) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this subsection as the "Committee") to assist the Secretary in carrying out this Act.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall consist of—

(I) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(II) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(III) 1 representative of the Agricultural Research Service, to be appointed by the Administrator of the Agricultural Research Service;

(IV) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(V) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(aa) has an interest or expertise in sudden oak death syndrome; and

(bb) would contribute to the Committee.

(ii) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 30 days after the date of enactment of this Act.

(C) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.
(2) DUTIES.—

(A) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(B) REPORTS.—

(i) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under subparagraph (A).

(ii) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(I) a summary of the activities of the Committee;

(II) an accounting of funds received and expended by the Committee; and

(III) findings and recommendations of the Committee.

(e) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out subsection (a), $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out subsection (b), $6,000,000;

(3) to carry out subsection (c), $500,000; and

(4) to carry out subsection (d), $250,000.

SA 1292. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 45, after line 25, insert the following:

SEC. 604. SUDDEN OAK DEATH SYNDROME CONTROL.

(a) RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(2) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under paragraph (1), the Secretary may—

(A) conduct open space, roadside, and aerial surveys;

(B) provide monitoring technique workshops;

(c) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(D) maintain a geographic information system database;

(E) conduct research activities, including research on forest pathology, Phytophthora ecology, insect insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(F) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(G) develop and apply treatments.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION.—

(1) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, control, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(2) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment, reforestation, resistant tree breeding, and exotic weed control;

(B) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(C) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(D) conduct national surveys and inspections of—

(i) commercial rhododendron and blueberry nurseries; and

(ii) native rhododendron and huckleberry plants;

(E) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(F) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection.

(c) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden oak death syndrome.

(2) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) develop and distribute educational materials for homeowners, arborists, urban foresters, park workers, personnel, recreationists, nursery workers, landscapers, naturalists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(B) design and maintain a website to provide information on sudden oak death syndrome; and

(C) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

(d) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this subsection as the ‘‘Committee’’) to assist the Secretary in carrying out this Act.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall consist of—

(I) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(II) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(III) 1 representative of the Agricultural Research Service, to be appointed by the Administrator of the Agricultural Research Service;

(IV) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(V) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(aa) has an interest or expertise in sudden oak death syndrome; and

(bb) would contribute to the Committee.

(ii) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(iii) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(b) DUTIES.—

(A) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(B) REPORTS.—

(i) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under subparagraph (A).

(ii) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(I) a summary of the activities of the Committee;

(II) an accounting of funds received and expended by the Committee; and

(III) findings and recommendations of the Committee.

(e) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out subsection (a), $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out subsection (b), $6,000,000;

(3) to carry out subsection (c), $500,000; and

(4) to carry out subsection (d), $250,000.

SA 1293. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 12, between lines 3 and 4, insert the following:

(e) NORTHEAST INTERSTATE DAIRY COMPACT.—Section 147(3) of the Agricultural Market Transition Act of 2001 (7 U.S.C. 7256(3)) is amended by striking ‘‘September 30, 2001’’ and inserting ‘‘the ending date applicable to milk under section 171(b)(1)’’.

SA 1294. Ms. SNOWE (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. CORPORATE AVERAGE FUEL ECONOMY STANDARDS.

Section 232 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (114 Stat. 1356, 1356A-28), is repealed.

SA 1295. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Emergency Agricultural Assistance Act of 2001’’.

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

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Market loss assistance.
TITLE I—MARKET LOSS ASSISTANCE

SEC. 101. MARKET LOSS ASSISTANCE.

(a) In General.—The Secretary of Agriculture referred to in this Act as the "Secretary") shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) ("Commodity Credit Corporation Act") and are entitled to receive a payment under that section.

(b) Amount and Manner.—In providing payments under this section, the Secretary shall:

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1221 note; Public Law 106-78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SEC. 102. OILSEEDS.

(a) In General.—The Secretary shall use $55,210,000 of funds of the Commodity Credit Corporation to make payments to producers of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) Computation.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (d); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) Yield.—(1) In General.—Except as provided in paragraph (2), the yield of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest, as reported by the producers to cover the farm to the Secretary (including any acreage reports that are filed late).

(2) New Producers.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the yield of the producers on the farm for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

SEC. 103. PEANUTS.

The Secretary shall use $55,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 206(a) of the Agricultural Risk Protection Act of 1994 (Public Law 103-224) to producers of peanuts or additional peanuts for the 2000 crop year that received a payment under that section.

SEC. 104. SUGAR.

(a) Marketing Assessment.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7276(f)) shall not apply with respect to the 2000 crop of sugar beets.

(b) Emergency Financial Assistance for 2000 Crop of Sugar Beets.—Notwithstanding section 615(d)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A-56), in making payments under that section for the 2000 crop of sugar beets, the Secretary shall make payments to producers of a farm in an area covered by Manager's Bulletin MGR-01-010 issued by the Federal Crop Insurance Corporation on March 2, 2001:

(1) The Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets are processed, on an aggregate basis for each farm by multiplying—

(A) the average county yield per harvested acre for the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(2) The Secretary shall make the quality loss payments to a cooperative for distributing agricultural commodities purchased under this section.

(c) Other Purchases.—The Secretary shall encourage that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

SEC. 105. HONEY.

(a) In General.—The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A-56), to producers of wool, and producers of mohair, and to any person that received a payment under that section.

(b) Payment Rate.—The Secretary shall adjust the payment rate specified in that section to reflect the amount made available for payments under this section.

SEC. 106. WOOL AND MOHAIR.

(a) In General.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation for fiscal year 2001 to provide assistance to producers and first handlers of the 2000 crop of cottonseed.

(b) Fiscal Year 2001.—The Secretary shall use $69,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers and first handlers of the 2001 crop of cottonseed.

SEC. 107. COTTONSEED.

(a) Fiscal Year 2001.—The Secretary shall use $55,210,000 of funds of the Commodity Credit Corporation for fiscal year 2001 to provide assistance to producers and first handlers of the 2000 crop of cottonseed.

(b) Payment Rate.—The Secretary shall adjust the payment rate specified in that section to reflect the amount made available for payments under this section.

SEC. 108. COMMODITY PURCHASES.

(a) In General.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentinis, melons, onions, peaches (including freestone), pears, potatoes (summer and fall), pumpkins, raisins, raspberries, red tart cherries, sweet corn, tomatoes, and watermelons.

(b) Geographic Diversity.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States.

(c) Other Purchases.—The Secretary shall encourage that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) Transportation and Distribution Costs.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) Purchases for School Nutrition Programs.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 109. LOAN DEFICIENCY PAYMENTS.

Section 133(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking "and inserting “each of the 2000 and 2001 crop years”."
SEC. 110. MILK.
(a) Extension of Milk Price Support Program.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended by striking paragraphs (b)(4) and (h) and inserting “(b) and (h) and inserting “2002”.
(b) Repeal of Recourse Loan Program for Processors.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7252) is repealed.

SEC. 111. PULSE CROPS.
(a) IN GENERAL.—The Secretary shall use $30,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners or persons that own a farm that grows dry peas, lentils, or chickpeas (collectively referred to in this section as a “pulse crop”).
(b) Computation.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—
(1) a payment rate determined by the Secretary;
(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c); and
(3) a payment factor determined by the Secretary.
(c) Basis.—For the purpose of paragraph (1), the number of acres planted to a pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary):
(i) the number of acres that, regardless of temporary transfers or undermarketings, are devoted, without penalty, to the production of each kind of pulse crop under the allotment under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2001 crop year;
(ii) 2,165 pounds per acre.

SEC. 112. TOBACCO.
(a) Tobacco Payments.
(1) Definitions.—In this subsection:
(A) Eligible Person.—The term “eligible person” means each of the following kinds of tobacco:
(i) Fire-cured tobacco (types 21, 22, and 23) and dark air-cured tobacco (types 35 and 36);
(ii) Fire-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), the quantity of the 2000 crop of apples referred to in paragraph (2) shall be equal to—
(A) the case of Virginia sun-cured tobacco (type 21), 1,630 pounds per acre;
(B) the case of Virginia air-cured tobacco (type 27), 1,512 pounds per acre; and
(C) the case of Virginia cigar-cured tobacco (types 42, 43, 44, 54, and 55), 2,165 pounds per acre.

(b) Payment Quantity.—The available payment quantity for pounds of a payment quantity under paragraph (2) shall be equal to—
(A) the case of fire-cured tobacco (types 21, 22, and 23) and dark air-cured tobacco (types 35 and 36), 26 cents per pound; and
(B) the case of each other kind of eligible tobacco not covered by subparagraph (A), 13 cents per pound.

(c) Division of Payments Among Eligible Persons.
(1) IN General.—Payments available with respect to a pound of payment quantity, as determined in paragraph (4), shall be made available to eligible persons in accordance with this paragraph.
(2) Maximum Quantity.—The payment quantity of tobacco for which the producers on a farm are eligible for payment under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(d) Applicability.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

TITLe II—ADMINISTRATION

SEC. 201. OBLIGATION PROVISIONS.
(a) Fiscal Year 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out the following:
(1) Section 101.
(2) Section 107(a).
(b) Fiscal Year 2002.—(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds in fiscal year 2002 to carry out title I (other than sections 101 and 107(a)).
(2) Availability.—Funds described in paragraph (1) are available only until expended.

SEC. 202. COMMODITY CREDIT CORPORATION.
Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SEC. 203. REGULATIONS.
(a) IN General.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.
SEC. 104. SUGAR.
(a) MARKETING ASSESSMENT.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 1727j-1) shall not apply with respect to the 2001 crop of sugar beets.
(b) EMERGENCY FINANCIAL ASSISTANCE FOR 2000 CROP OF SUGAR BEETS.—Notwithstanding section 615(d)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–56), in making payments under that section for the 2000 crop of sugar beets to producers of sugar beets on a farm in an area covered by Manager’s Bulletin MGR–01–010 issued by the Federal Crop Insurance Corporation on March 6, 2001:
(1) the Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets are processed, on an acreage unit basis;
(2) the Secretary shall make the quality loss payments to a cooperative for distribution to cooperative members; and
(3) the Secretary shall access to the amount of the payments of the 2001 crop of sugar beets to processed on the crop if such crop had not suffered a quality loss;
(4) the average price paid for a 2001 crop of sugar beets to the highest and in the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 105. HONEY.
(a) IN GENERAL.—The Secretary shall use the Commodity Credit Corporation to make nonrecourse loans available to producers of the 2001 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.
(b) PAYMENT RATE.—The loan rate for a loan under subsection (a) shall be equal to 85 percent of the simple average price received by producers of honey, as determined by the Secretary, during the marketing years for the immediately preceding 5 years of honey, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 106. WOOL AND MOHAIR.
(a) IN GENERAL.—The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to make nonrecourse loans available to producers of the 2001 crop of wool for the immediate marketing year and the crop year.

SEC. 107. COTTONSEED.
(a) FISCAL YEAR 2001.—The Secretary shall use $34,000,000 of funds of the Commodity Credit Corporation for fiscal year 2001 to provide assistance to producers and to the United States for the 2000 crop of cottonseeds.

(b) FISCAL YEAR 2002.—The Secretary shall use $66,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers and to the United States for the 2001 crop of cottonseeds.

SEC. 108. COMMODITY PURCHASES.
(a) IN GENERAL.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe,
SEC. 110. DEFICIENCY PAYMENTS.
Section 135a(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235a(a)(2)) is amended by striking “2000 crop year” and inserting “each of the 2000 and 2001 crop years”.

SEC. 110. MILK.
(a) EXTENSION OF MILK PRICE SUPPORT PROGRAM.—Section 135a of the Agricultural Market Transition Act (7 U.S.C. 7235a) is amended by striking “2001” each place it appears in subsections (b)(4) and (h) and inserting “2002”.
(b) REPEAL OF RECOUPMENT LOAN PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7232) is repealed.

SEC. 111. PULSE CROPS.
(a) IN GENERAL.—The Secretary shall use $30,000,000 of the funds made available under this section to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.
(b) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 112. TOBACCO.
(a) TOBACCO PAYMENTS.—
(1) DEFINITIONS.—In this subsection:
(A) ELIGIBLE PERSON.—The term “eligible person” means—
(I) owns a farm for which, regardless of temporary transfers or undermarketing, a basic quota or allotment for eligible tobacco is established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.); and
(II) controls the farm from which, under the quota or allotment for the relevant period, eligible tobacco is marketed, could have been marketed, or can be marketed, is established, or is eligible to be marketed, or can be marketed, under the quota or allotment for the 2001 crop year, taking into account temporary transfers; or
(B) ELIGIBLE TOBACCO.—The term “eligible tobacco” means each of the following kinds of tobacco:
(I) Flue-cured tobacco, comprising types 11, 12, 13, and 14.
(II) Fire-cured tobacco, comprising types 21, 22, and 23.
(III) Dark air-cured tobacco, comprising types 35 and 36.
(IV) Virginia sun-cured tobacco, comprising type 37.
(V) Burley tobacco, comprising type 31.
(VI) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.
(VII) Fire-cured tobacco, comprising types 42, 43, 44, and 54.
(VIII) Open-market tobacco, comprising types 42, 43, and 54.
(2) PAYMENTS.—Not later than September 30, 2002, the Secretary shall use funds of the Commodity Credit Corporation to make payments under this subsection.
(b) GRADING OF PRICE-SUPPORT TOBACCO.—In carrying out this subsection, the Secretary shall ensure that all kinds of the tobacco covered by this section are graded at the time of sale.
(c) ACREAGE.—The acreage of the owners and producers on a farm for a crop year shall be based on (as determined by the Secretary):—
(1) the number of acres planted to the crop by the owners and producers on the farm in the 1998, 1999, or 2000 crop year, whichever is greatest.
(2) BASIS.—For the purpose of paragraph (1), the number of acres planted to the crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary):
(A) the number of acres planted to the crop by the owners and producers on the farm in the United States for the crop year for the purpose included in reports that are filed late; or
(B) the number of acres planted to the crop by the owners and producers on a farm that grow the crop by the owners and producers on the farm under this section.
(d) TRANSPORTATION AND DISTRIBUTION COSTS.—Not later than November 30, 2001, the Secretary shall use more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.
(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for distribution to schools and service institutions in accordance with section 6(a) of that Act.
(f) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to provide assistance in the States to cover costs incurred by the States to purchase agricultural commodities for distribution to schools and service institutions in the States to cover costs incurred by the States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.
(g) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

SEC. 113. APPLES.
(a) IN GENERAL.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments available with respect to a pound of poundage payment quantity, as determined under paragraph (4), to be paid to the producers or owners of apples for which the producers or owners are eligible for payments under paragraph (1) of this section in the case of apples that are eligible to be marketed under the program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.); and
(b) PAYMENT QUANTITY.—The payment quantity of apples for which the producers or owners of apples are eligible for payments under paragraph (1) of this section shall be equal to:
(1) the quantity of the 2000 crop of apples produced by the eligible person; or
(2) the quantity of the 2001 crop of apples produced by the eligible person; or
(3) the quantity of apples purchased under paragraph (2) of subsection (a).
this section shall not exceed 5,000,000 pounds of apples produced on the farm.
(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.
(d) APPLICABILITY.—This section applies only to the 2000 crop of apples and producers of that crop.

**TITLE II—ADMINISTRATION**

**SEC. 201. OBLIGATION PERIOD.**

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out the following:
(1) Section 101.
(2) Section 107(a).
(b) FISCAL YEAR 2002.—
(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

**SEC. 202. COMMODITY CREDIT CORPORATION.**

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

**SEC. 203. REGULATIONS.**

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.
(b) PROCEDURE.—The promulgation of the regulations and administration of the amendments made by this Act shall be made without regard to:
(1) the notice and comment provisions of section 553 of title 5, United States Code; and
(2) the statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of rulemaking and public participation in rulemaking; and
(3) the provisions of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).
(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SA 1297. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:**

Strike sections 1 and 2 and insert the following:

**SECTION 11. MARKET LOSS ASSISTANCE.**

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).
(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall:
(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106-78); and
(2) provide payments in a manner that is consistent with section 802(c) of that Act.

**SEC. 2. OILSEEDS.**

(a) IN GENERAL.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2001 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).
(b) COMPUTATION.—A payment to producers on a farm under subsection (b) shall be equal to the product obtained by multiplying:
(1) a payment rate determined by the Secretary;
(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and
(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).
(c) ACREAGE.—
(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed, as determined under subsection (c), shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greater, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).
(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the acreage of the producers for the oilseed under subsection (c)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).
(d) YIELD.—
(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—
(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the lowest yield per harvested acre; or
(B) the actual yield of the producers on the farm for the 1996, 1998, or 2000 crop year.
(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—
(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the lowest yield per harvested acre; and
(B) the actual yield of the producers on the farm for the 1996, 1998, or 2000 crop year.
(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1996, 1998, or 2000 crop years, excluding the crop year with the lowest yield per harvested acre, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—
(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre; and
(B) the actual yield of the producers on the farm for the 1996, 1998, or 2000 crop year.

**SEC. 11. OBLIGATION PERIOD.**

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than section 2).
(b) FISCAL YEAR 2002.—
(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2002 to carry out section 2.
(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

**SA 1298. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:**

Strike section 11 and insert the following:

**TITLE II—CONSERVATION**

**SEC. 201. CONSERVATION RESERVE PROGRAM.**

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 803 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (15 U.S.C. 3831 et seq.).
(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(h)(4)(B) of the Food Security Act of 1985 (15 U.S.C. 3831(h)(4)(B)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.
(c) PAYMENTS.—
(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program:
(A) the preservation of shallow water areas for wildlife;
(B) the establishment of permanent vegetative cover, such as cover crop, grass strips and cross-wind trap strips; and
(C) the preservation of wellhead protection areas.
(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under section 11 and insert the following:
(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—
(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting “which may include emerging vegetation in wetland areas.”
(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting “which may include emerging vegetation in wetland areas.”
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U.S.C. 3832(a)(4) is amended by inserting “(which may include emerging vegetation in water)” after “vegetative cover.”

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) Maximum Enrollment.—Notwithstanding section 387(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the wetlands reserve program established under chapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) Technical Assistance; Monitoring and Maintenance Expenses.—Notwithstanding section 11(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve programs established or Early Contract Wetland Program established under section 11(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Conservation Act of 1996 (16 U.S.C. 3836a); and

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830; Public Law 104–127) and section 211(a) of the Agricultural Conservation Act of 1996 (16 U.S.C. 3836a); and

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) In General.—In addition to amounts made available under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830; Public Law 104–127) and section 211(a) of the Agricultural Conservation Act of 1996 (16 U.S.C. 3836a); and

(b) Technical Assistance.—Notwithstanding section 11(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use $100,000,000 to provide technical assistance under the farmland protection program.

SEC. 206. RISK MANAGEMENT CONSERVATION ASSISTANCE.

(a) In General.—Notwithstanding sections 201 through 205, subject to subsection (d), of the amount of funds made available under this title and chapter, the Secretary shall use $100,000,000 to address critical risk management needs (including such needs under programs specified in subsection (b)) in States that are described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

(b) Minimum Amount.—Subject to subsection (d), the minimum amount that each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) Programs.—For the purpose of subsection (a), the programs specified in this subsection are—

(1) the wetlands reserve program established under chapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Water Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a); and

(4) the farmland protection program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

(d) Other States.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under chapter 4 of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); and the Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the farmland protection program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

SEC. 207. WETLANDS RESTORATION PROGRAM.

(a) In General.—The Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the wetlands restoration program established under section 11(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) for the purpose of sub-...
greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or
(B) the actual yield of the producers on the farm for the 2001 crop.
(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data pro-
vided by the National Agricultural Statistics Service to carry out this subsection.
(c) OBLIGATION PERIOD.—The Secretary and the Commodity Credit Corporation shall ob-
lige and expend funds only during fiscal year 2001 to carry out this section.

Strike section 11 and insert the following:

SEC. 11. OBLIGATION PERIOD.
(a) Fiscal Year 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than section 2).
(b) Fiscal Year 2002.—
(1) In General.—Except as otherwise pro-
vided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2002 to carry out section 2.
(2) Availability.—Funds described in para-
graph (1) shall remain available until expended.

SA 1300, Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural pro-
ducers, which was ordered to be laid on the table, as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.
(a) Technical Assistance.—Notwith-
standing the Federal Farmer and Rural pregnancies Act of 1996 (16 U.S.C. 3831(e)(1)), in addition to amounts made available under section 801 of the Agriculture, Rural Devel-
opment, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $94,000,000 of funds of the Commodity Credit Corporation to provide technical as-
sistance under the conservation reserve pro-
gram established under subchapter B of chapter 1 of title XII of the Food Security Act of 1985 (16 U.S.C. 3881 et seq.).
(b) Extinction of Contracts.—Notwith-
standing section 1231(a)(1) of the Federal Security Act of 1985 (16 U.S.C. 3831(b)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during cal-
endar year 2001 may extend the contract for 1 year.
(c) Payments.—
(1) In General.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among programs that are eligible for payments under the con-
servation reserve program:
(A) the preservation of shallow water areas for wildlife;
(b) the establishment of permanent vege-
tative cover, such as contour grass strips and cross-wind trap strips; and
(C) the preservation of wellhead protection areas.
(2) Other Practices.—The Secretary shall admin-
ister, in a manner that does not reduce the amount of payments made by him for other practices under the conservation reserve program.
(d) Pilot Program for Enrollment of Wetland and Buffer Acreage in Conservation Reserve Program.
(1) In General.—Section 1231(b)(4)(B) of the Federal Security Act of 1985 (16 U.S.C. 3831(b)(4)(B)) is amended by inserting “(which may include emerging vegetation in water)” after “vegetative cover”.
(2) Conforming Amendment.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting “(which may include emerging vegetation in water)” after “vegetative cover”.
SEC. 202. WETLANDS RESERVE PROGRAM.
(a) Maximum Enrollment.—Notwith-
standing section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Develop-
ment, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to sub-
section (b), the Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wet-
lands reserve program established under sub-
chapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).
(b) Technical Assistance; Monitoring and Maintenance of Conservation Reserve.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714), of the funds made available under subsection (a), the Sec-
retary shall use:
(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and
(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and mainte-
nance expenses incurred by the Secretary for land enrolled under the wetlands reserve pro-
gram as of the date of enactment of this Act.
SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.
In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to establish the environ-
mental quality incentives program established under section 4 of sub-
title D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).
SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.
In addition to amounts made available under section 387(c) of the Federal Agricul-
ture Improvement and Reform Act of 1996 (16 U.S.C. 388c(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habi-
tat Incentive Program established under section 387 of that Act.
SEC. 205. FARMLAND PROTECTION PROGRAM.
In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3880 note; Public Law 104–127), the Secretary shall use $5,000,000 of funds of the Commodity Credit Corporation to make pay-
ments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to:
(1) any agency of any State or local gov-
ernment, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and
(2) any organization that—
(A) is organized for, at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (1) and (2) of section 509(a)(2) of the Internal Revenue Code of 1986;
(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a)(1) of that Code;
(C) is described in section 509(a)(2) of that Code; or
(D) is described in section 509(a)(3) of that Code.
(3) PROGRAMS.—For the purpose of subsec-
tion (a), the programs specified in this subsection are—
(1) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);
(2) the environmental quality incentives program established under section 4 of sub-
title D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);
(3) the Wildlife Habitat Incentive Program established under section 4 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3839a); and
(4) the farmland protection program established under section 388 of the Federal Agricul-
(d) Other States.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under section 4 of sub-
title D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in States that are not described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD.
(a) Fiscal Year 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title II).
(b) Fiscal Year 2002.—
(1) In General.—Except as otherwise pro-
vided in this Act, the Secretary and the

S8816 CONGRESSIONAL RECORD—SENATE August 2, 2001
SEC. 201. TECHNICAL ASSISTANCE—CONSERVATION RESERVE PROGRAM. 
(a) TECHNICAL ASSISTANCE—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), the Secretary shall use $15,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).


(c) PAYMENTS.—(1) In general.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—
(A) the preservation of shallow water areas for wildlife;
(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and
(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made under the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE PROGRAM.—(1) In general.—Section 123(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by adding “(which may include emerging vegetation in water)” after “vegetative cover”.

(2) CONFORMING AMENDMENT.—Section 1223(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting “(which may include emerging vegetation in water)” after “vegetative cover”.

SEC. 202. WETLANDS RESERVE PROGRAM. 
(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1227(h)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(h)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall make available not more than $100,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subsection (a) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(b) PAYMENTS.—(1) In general.—Except as otherwise provided in this Act, the Secretary shall make available funds not exceeding $500,000,000.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM. In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3832a et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM. In addition to amounts made available under section 387(c) of the Federal Agricultural Improvement and Reform Act of 1996 (16 U.S.C. 3838c), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM. (a) In General.—In addition to amounts made available under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3838 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3832(w)), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government for the purchase of working interests in, or easements on, land including associated natural resources, farmland protection boards, and land resource councils established under State law; and

(2) any organization that—
(A) is organized for, and at all times since the formation of the organization has been principally a charitable organization for the purpose of acquiring, preserving, and protecting wildlands and watersheds, including farmland protection programs, and the acquisition of easements for the purpose of retaining those lands in their natural state.

(b) PAYMENTS.—(1) In general.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—
(A) the preservation of shallow water areas for wildlife;
(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and
(C) the preservation of wellhead protection areas.

(C) AN ADDITIONAL AMENDMENT.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD. (a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2002 to carry out this Act (other than title II).

(b) FISCAL YEAR 2002.—(1) In General.—Except as otherwise provided in this Act, the Secretary shall obligate and expend funds during fiscal year 2002 to carry out this Act (other than title II).

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 302. COMMODITY CREDIT CORPORATION. Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SA 1303. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. TECHNICAL ASSISTANCE—CONSERVATION RESERVE PROGRAM. 
(a) TECHNICAL ASSISTANCE—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $15,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS—Notwithstanding section 1221(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a conservation reserve program contract that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—(1) In general.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—
(A) the preservation of shallow water areas for wildlife;
(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and
(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made under the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE PROGRAM.—(1) In general.—Section 123(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by adding “(which may include emerging vegetation in water)” after “vegetative cover”.

(2) CONFORMING AMENDMENT.—Section 1223(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting “(which may include emerging vegetation in water)” after “vegetative cover”.
(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under this title or the Conservation Reserve Program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 123(b)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(4)(B)) is amended by inserting “vegetative cover” after “emerging vegetation in water”.

(2) CONFORMING AMENDMENT.—Section 123(b)(4)(C) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(4)(C)) is amended by inserting “vegetative cover” after “emerging vegetation in water”.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 123(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $300,000,000 of funds of the Commodity Credit Corporation to make payments in a manner that the Secretary shall use $300,000,000 of funds of the Commodity Credit Corporation to make payments in a manner that—

(1) if the funds are used under section 78(e) of that Title, as that Title is in effect on the date of enactment of this Act, the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

TITLE III—ADMINISTRATION

SEC. 203. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title III).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2002 to carry out title II.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 204. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall carry out this Act.

SEC. 11. OBLIGATION PERIOD.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3838a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentives Program established under section 387 of that Act.

SEC. 205. WLIFELIFE HABITAT INCENTIVES PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3838a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentives Program established under section 387 of that Act.

SEC. 206. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3838a(c)), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) an agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 501(c)(4) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

SEC. 207. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall carry out this Act.

SEC. 11. OBLIGATION PERIOD.

Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 1 and insert the following:

SEC. 1. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78), and any other Act of Congress, including Federal Credit Reform Act of 1990 (12 U.S.C. 675 note; Public Law 101–236), shall provide the payments in a manner that is consistent with section 802(c) of that Act.

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

(c) IMPLEMENTATION.—

(1) ORGANIZATIONS.—The Secretary shall ensure that persons or organizations that administer programs under this section provide for implementation that is consistent with section 802(c) of that Act.

(2) REVIEW.—Notwithstanding any other provision of law, the Secretary may not use funds made available under this section for activities that are inconsistent with section 802(c) of that Act.

Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 23, Line 14, add the Committee on Health, Education, Labor, and Pensions:

SEC. 1309. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 10, strike the words “the quantity of the 2000 crop” and replace with the highest quantity of any single crop year between 1999 and 2001.”

Mrs. KERRY submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 10, strike the words “the quantity of the 2000 crop” and replace with the highest quantity of any single crop year between 1999 and 2001.”
independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, line 2, strike "$60,000,000" and insert "$63,000,000".

On page 21, line 24 strike "$615,000,000" and insert "$635,000,000".

SA 1311. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:


(a) In General.—The term ‘human cloning’ means human asexual reproduction, accomplished by introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been removed or inactivated to produce a living organism (at any stage of development) with a human or predominantly human genetic constitution.

(b) Somatic cell.—The term ‘somatic cell’ means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

SA 1314. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 16, strike "5,000,000" and insert "10,000,000".

SA 1315. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Beginning on page 24, strike line 24 and all that follows through page 25, line 2, and insert the following: "$30,000,000,000 of funds of the Commodity Credit Corporation to make payments under the farm safety program, including in concluding applicable—

SA 1316. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 21, line 19, strike "1 year" and insert "2 years".

SA 1317. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, strike lines 5 through 24 and insert the following: "$30,000,000,000 for the losses of markets during the 2000 and 2001 crop years.

(b) Payment Quantity.—(1) In General.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) Maximum Quantity.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) Limitations.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) Applicability.—This section applies only with respect to the 2000 and 2001 crops of apples and producers of those crops.

SA 1318. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike "$500,000,000" and insert "$1,000,000,000".

SA 1319. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

Beginning on page 13, line 19, strike all text through page 14, line 14, and insert the following in lieu thereof:

"The term ‘eligible person’ means only residents of American Samoa."

SA 1320. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 10, line 3, strike "$220,000,000" and insert "$22,000,000".

SA 1321. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 12, line 6, strike "$20,000,000" and insert "$5,000,000".

SA 1322. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 36, line 18, strike "$18,000,000" and insert "$1,800,000".

SA 1324. Mr. SCHUMER submitted an amendment intended to be proposed by
him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 43, line 24, strike "$24,000,000.00" and insert "$2,400,000.00."

SEC. 103. APPLES.

At the appropriate place add the following:

SEC. 103. APPLES. 

(a) In General. — The Secretary shall use $390,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year.

SEC. 103. PEANUTS. 

At the appropriate place insert:

SEC. 103. PEANUTS. 

Beginning on page 7, line 3, strike all text through page 20, line 5, and insert the following in lieu thereof:

"SEC. 103. PEANUTS."

(b) In General. — The Secretary shall increase enforcement and increasing compliance, and issue recommendations for strengthening enforcement and increasing compliance, with the CFTC to carry out its responsibilities under this Act. The Secretary may make up to $600,000,000 available for necessary expenses involved in administering the laws and regulations administered by the CFTC.

SEC. 103. APPLES. 

At the appropriate place add the following:

SEC. 103. APPLES. 

Notwithstanding any other provision of this Act, the amounts provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SEC. 103. PEANUTS. 

At the appropriate place add the following:

SEC. 103. PEANUTS. 

Notwithstanding any other provision of this Act, the amounts provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SEC. 103. APPLES. 

At the appropriate place add the following:

SEC. 103. APPLES. 

Notwithstanding any other provision of this Act, the amounts provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SEC. 103. Apples. 

At the appropriate place add the following:

SEC. 103. APPLES. 

Notwithstanding any other provision of this Act, the amounts provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SEC. 103. Apples. 

At the appropriate place add the following:

SEC. 103. Apples. 

Notwithstanding any other provision of this Act, the amounts provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.
III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 6 of the Agricultural Marketing Act of 1937, reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a “Federal milk marketing order”); and

(2)铕MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the Federal Milk Marketing Order System, or his designee, shall take such steps as are necessary to assure the ability to provide milk to the market in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential and integral part of the health and welfare of the region. Commission regulations may exempt any milk plant having such distribution or receipts in the south, and the vitality of the southern dairy industry, with all the associated benefits.

FINDINGS AND DECLARATION OF POLICY

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the ability to provide milk to the market in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors, and consumers, are an integral component of the region’s economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region. The participating states further find that dairy farms are essential and they are an integral part of the region’s rural communities and serve land for agricultural purposes and provide needed economic stimuli for rural communities.

In order to provide a constitutional regulatory authority over the region’s fluid milk market by this compact, the participating states declare that their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

“Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not create a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

“By entering into this compact, the participating states affirm that their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy industry. Historically, individual state regulatory action has been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without precluding the power of states to regulate milk prices above the minimum level.

“In today’s regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market and our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may possess without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

§2 Definitions

For the purposes of this compact, and of any supplemental or concurrent legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) Class I milk means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section 2 of this article.

(2) ‘Commission’ means the Southern Dairy Compact Commission established by this compact.

(3) ‘Commission marketing order’ means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or the production control function. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

(4) ‘Compact’ means this interstate compact.

(5) ‘Compact over-order price’ means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to section nine of this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(6) ‘Milk’ means the liquid secretion of cows and includes all skimmed milk, cream, and other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission in the event of the need for clarification.

(7) ‘Partially regulated plant’ means a milk plant not located in a regulated area but having Class I distribution within such area, and which is exempt from the requirements of the compact.

(8) ‘Participating state’ means a state which has become a party to this compact by the enactment of concurrent legislation.

(9) ‘Pool plant’ means any milk plant located within a regulated area.

(10) ‘Region’ means the territorial limits of the states which are parties to this compact.

(11) ‘Regulated area’ means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

§4. Commission established

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. Any delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents of the state in which they were elected, and the members of such delegation shall be paid for their services.

§5. Voting requirements

All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order or the amendment or rescission of the commission’s by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to cast one vote in the commission’s affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations.

The establishment of a regulated area which covers all or part of a participating state shall
require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission.

6. Administration and management

(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission shall have the power to establish a separate executive committee composed of one member elected by each delegation.

(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in the Federal Register with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other officers of participating states as provided by the laws of those states.

(c) The commission shall hold an annual report meeting of the chairpersons of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere provided in this compact, the commission shall have the power:

(1) To sue and be sued in any state or federal court;

(2) To have a seal and at the same price;

(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, or other similar manner, for its corporate purposes;

(4) To borrow money and issue notes, to provide for the rights of the holders thereof and to protect the public interests therefrom, as security therefor, subject to the provisions of section eighteen of this compact;

(5) To appoint such officers, agents, and employees as it deems necessary, prescribe their powers, duties and qualifications; and

(6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement insurance, and employment. The commission may also retain personal services on a contract basis.

7. Rulemaking power

In addition to the power to promulgate a compact, order, or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE VII POWERS OF THE COMMISSION

8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

The commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects upon prices of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the development of marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to consider their relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the commission's efforts by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pool and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the applicable federal or state or other regulatory law and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(5) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission is hereby empowered to establish a compact over-price for milk to be paid by pool plants and partially or entirely by pool members. The commission is also empowered to establish a compact over-price to be paid by all other handlers receiving milk from producers located in a regulated area, the purpose of which is to pay such handlers either as a compact over-price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulations without regard to the status of the transfer of title, possession or any other factors not related to the purposes of the regulations. Without this compact, handlers as defined in any applicable federal market order shall not be subject to a compact over-price. The commission shall provide for similar treatment of handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk products in the regulated area, the costs of production including, but not limited to the price paid for feed, the cost of livestock, the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributors.

(f) When establishing a compact over-price, the commission shall take such other action as is necessary and feasible to help ensure that the over-price does not become an administrative or regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

9. Equitable farm prices

(a) The powers granted in this section and section ten shall apply only to the establishment of a minimum price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish a new or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) The definition of "milk price" shall be established pursuant to this section shall apply only to Class I milk. Such compact over-price shall not exceed one dollar and ten cents, or the prevailing class price, if applicable. However, this compact over-price shall be adjusted upward or downward at other locations in the region to reflect changes in minimum federal order prices. Beginning in nineteen hundred ninety, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the applicable federal or state or other regulatory law and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

9. Optional provisions for pricing order

Regulations establishing a compact over-price or a commission marketing order may contain, but shall not be limited to any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, providing or enacting a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustment or zone differentials, zone differentials or competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the source of the milk, through the individual handler to whom it is delivered, or the payment of handlers delivering milk to the same handler of uniform prices for all milk delivered to him by them.

(a) With respect to regulations establishing a compact over-price, the commission may establish one equalization pool which may be used to equalize returns to producers throughout the regulated area.
(B) With respect to any commodity marketing order, as defined in section two, subdivision three, which replaces one or more terminated federal orders or state dairy regulations governing an area of new or expanded state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compulsory assessments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compulsory assessments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal or state dairy marketing order or state dairy regulation and the Class I price established by the compact over-price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-price or commission marketing order be adjusted in accordance with any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of rendering services for or advancing the interests of producers of such commodity, as the commission determines, for the cost of milk purchased by handlers for that purpose.

(10) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. RULEMAKING PROCEDURE

§ 11. Rulemaking procedure

Before promulgation of any regulations establishing a compact over-price or commission marketing order, including any provision with respect to milk supply under subsection (9), or amendment thereof, as provided in the commission marketing order, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553(c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if authorized on or before such date as may be specified in such marketing agreement or order.

(12) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

§ 13. Producer referendum

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-price or a commission marketing order, including any provision with respect to milk supply under subsection (9), is approved by producers, the commission shall conduct a producer referendum among producers. The referendum shall be held in a timely manner, as determined by the commission of the referendum. The terms and conditions with respect to the amendment or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, other than single handlers or handlers which do not identify the interests of the handlers and its members or stockholders in, or under contract with, a cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either. No cooperative not certified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(2) Any producer of single handlers or individual producers shall be qualified to block vote for either. No single producer shall be certified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(3) Any producer of single handlers or individual producers shall be qualified to block vote for either. No single producer shall be certified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(4) A producer who is a member of a cooperative association of producers and is in the proper capacity, having the right to vote, shall be subject to a fine of not more than one thousand dollars or to imprisonment for not more
than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or the United States Attorney.

§16. Subpoena; hearings and judicial review

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or regulation is invalid, and in connection therewith is not in accordance with law and praying for a hearing on such petition, in accordance with regulations made by the commission. After hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which such handler is an inhabitant, or has its principal place of business, shall have jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the date of the entry of such ruling. Service of such proceedings shall be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such action as shall enable the commission to proceed pursuant to the request of the association. The pendency of proceedings instituted pursuant to this subdivision shall not hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except where brought by a party of record, may be brought by a party of record in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties respecting the same subject matter.

§17. Enforcement with respect to handlers

(a) Any violation by a handler of the provisions of this compact, or any order, rule, order price or a commission marketing order, or other regulations adopted pursuant to this compact shall be punishable by:

(1) A civil penalty in an amount as may be prescribed by the laws of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating state.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, or any order, rule, order price or a commission marketing order, or other regulations adopted pursuant to this compact which shall be in accordance with law, or (2) to take such action as shall enable the commission to proceed pursuant to the request of the association. The pendency of proceedings instituted pursuant to this subdivision shall not hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except where brought by a party of record, may be brought by a party of record in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties respecting the same subject matter.

§18. Finance of start-up and regular costs

(a) To provide for the costs of start-up, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the cost of any enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who pays assessments within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes.

(b) The commission shall provide for establishment of a reserve account to cover the commission’s ongoing operating expenses.

(c) The commission shall provide for establishment of a reserve to cover the commission’s ongoing operating expenses.

(d) The commission shall provide for establishment of a reserve to cover the commission’s ongoing operating expenses.

§19. Audit and accounts

(a) The commission must keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the auditor shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the commission or any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

§20. Entry into force; additional members and withdrawal

The compact shall enter into force:

(a) When signed and executed by states that account for more than 50 percent of the milk produced in the states which have signed this compact, and a copy thereof is sent to the Administrator of the applicable Federal milk marketing order.

(b) To provide for the costs of start-up, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the cost of any enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who pays assessments within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes.

(c) The commission shall provide for establishment of a reserve account to cover the commission’s ongoing operating expenses.

(d) The commission shall provide for establishment of a reserve account to cover the commission’s ongoing operating expenses.

§21. Withdrawal from compact

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any rights, obligations, or liabilities incurred by, or chargeable to a participating state prior to the time of such withdrawal.
Lake City, Utah

The Dairy Compact Commission shall compensate the Commission and be committed an amendment intended to be

(2) those projects had not been completed or before June 12, 2001; 

and

(2) by adding at the end the following:  

(5) M ILK MARKETING ORDER ADMINIS -  

independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

The Dairy Compact Commission shall provide technical assistance to the Commission and be compensated for that assistance.

It is the sense of the Congress that the Secretary of Defense shall not authorize any purchases of milk and milk products by the Commission under the Intermountain Dairy Compact (referred to in this section as the "Federal milk marketing order").

Effective date. — Congressional con-  

(2) by adding at the end the following:  

not less than one member who is directly assisted by the public housing authority during fiscal year 2002.

SA 1337. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 3. TORNADO SHELTERS GRANTS.  

(b) References to “Southern” shall be changed to “Intermountain”.

(2) any "three" and all that follows shall be changed to Colorado, Nevada, and Utah.

(5) The Dairy Compact Commission (in this section referred to as the "Dairy Compact") shall approve the release of funds under section 8c of the Agricultural Adjustment Act (7 U.S.C. 698c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as the "Federal milk marketing order").

5. TORNADO SHELTERS GRANTS. —

3. Those projects had not been completed or before June 12, 2001.

2. Those projects had not been completed or before June 12, 2001;

4. The Secretary has approved the certification that meets the requirements of section 288(c) with respect to those projects.

SA 1337. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 2. IMPORTANCE OF PROGRESS REPORTS.  

2. by adding at the end the following:

SEC. 28. AUTHORITY TO MAINTAIN FREE PUBLIC LIBRARIES. —

SEC. 5. MARKETING ORDER ADMINIS -  

4. COMPENSATION OF COMMODITY CREDIT CORPORATION. — Before the end of each fiscal year in which a price regulation is in effect under this section as the Intermountain Dairy Compact, the Commission shall compensate the Com- modity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) or the Committee provided in section 533 of title 5, United States Code.

The Secretary of Housing and Urban Development shall, regarding the requirement that a public housing authority during fiscal year 2002.

On page 62, between lines 13 and 14, insert the following:

At the appropriate place insert the following:

SEC. 218. ENDOWMENT FUNDS. —

1. PURCHASE OF AMERICAN-MADE EQUIPMENT  

2. by adding at the end the following:

(2) by adding at the end the following:

SA 1336. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

The term "Hawaiian" means any descendant of not less than one-half part of the aboriginal Indian races inhabiting the Hawaiian Islands before January 1, 1788, or, in the case of an individual who is awarded an interest in a lease of Ha-awaiian home lands through transfer or suc- cession, such lower percentage as may be es- tablished for such transfer or succession under section 206 or 209 of the Hawaiian Homelands Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ‘An Act to provide for the admission of the State of Ha-awai into the Union’, approved March 18, 1959 (73 Stat. 5).

"(b) Hawaiian home lands." The term ‘‘Hawaiian home lands” means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homelands Commission Act of 1920 (42 Stat. 110), under the corresponding provi- sion of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ‘An Act to provide for the admission of the State of Hawaii into the Union’, approved March 18, 1959 (73 Stat. 5), and

SA 1336. Mr. HUTCHINSON sub-  

3. by adding at the end the following:

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS. — It is the sense of the Congress that the Secretary of Housing and Urban Development, to the greatest extent practicable, shall provide to that entity a notice describ- ing the statement made in paragraph (1) of the Congress.

At the appropriate place insert the following:

SEC. 5. MARKETING ORDER ADMINISTRAT -  

3. by adding at the end the following:

SEC. 28. AUTHORITY TO MAINTAIN FREE PUBLIC LIBRARIES. —

At the appropriate place insert the following:

SEC. 130. Mr. MIKULSKI (for herself and Mr. BOND) proposed an amendment to a amendment S 1214 submitted by Ms. MIKULSKI and intended to be pro- posed to the bill (H.R. 2620) making appro- priations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002; and for other purposes; as follows:

8. by adding at the end the following:

(1) by adding at the end:

"(26) the construction or improvement of tornado- or storm-safe shelters for manufac- tured housing parks and residents of other tornado- or storm-safe shelters for manufac- tured housing parks and residents of other

(2) by adding at the end the following:

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT  

3. Those projects had not been completed or before June 12, 2001;

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT  

At the appropriate place insert the following:

SEC. 130. Mr. MIKULSKI (for herself and Mr. BOND) proposed an amendment to an amendment S 1214 submitted by Ms. MIKULSKI and intended to be pro- posed to the bill (H.R. 2620) making appro- priations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002; and for other purposes; as follows:
(a) IN GENERAL.—Any entity that receives funds pursuant to this Act, and discriminates against any person because the person is, or is perceived to be, a victim of domestic violence, dating violence, sexual assault, or stalking, including because the person has contacted or received assistance or services from law enforcement related to the violence, shall be considered to be discriminating against any person for any conditions, privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental, because of sex under section 304 of the Civil Rights Act of 1968 (42 U.S.C. 3604(b)).

(b) DEFINITIONS.—In this section:

(1) TERMS.—The term "courts of conduct" means a course of conduct that occurs in a public place, including electronic communications, or threats implied by conduct.

(2) DATING VIOLENCE.—The term "dating violence" has the meaning given in section 163(a) of the Family Violence Prevention and Treatment Act.

(3) DOMESTIC VIOLENCE.—The term "domestic violence" means, with respect to a person, violence committed against the person by a current or former spouse of the person, by a person with whom the person has a child in common, by a person who is cohabiting with the person, or by a person who previously lived with the person as a member of the same household.

SEC. 3. EXPERIMENTAL PROGRAM TO STIMULATE LATE COMPETITIVE RESEARCH.

From amounts available to the National Science Foundation under this act, a total of $115,000,000 may be available to carry out the Experimental Program to Stimulate Competitive Research (EPSCoR), which excludes $25 million in co-funding.

On page 27, line 20, insert after the colon the following: "Provided, That the Secretary of Housing and Urban Development (Secretary) may provide technical and financial assistance to the Turtle Mountain Band of Chippewa for emergency housing, housing assistance funds to address the mold problem at the Turtle Mountain Indian Reservation: Provided further, That the Secretary shall work with the Turtle Mountain Band of Chippewa, the Northern Plains Emergency Management Agency, the Indian Health Service, the Bureau of Indian Affairs, and other appropriate federal agencies in developing a plan to maximize federal resources to address the emergency housing needs and related problems.".

At the appropriate place, insert the following:

SEC. 4. SENSE OF THE SENATE CONCERNING THE STATE WATER POLLUTION CONTROL REVOLVING FUND.

(a) FINDINGS.—Congress finds that:

(1) funds from the drinking water State revolving fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) are allocated on the basis of an infrastructural needs survey conducted by the Administrator of the Environmental Protection Agency, in accordance with the Safe Drinking Water Act Amendments of 1996 (Public Law 104-182);

(2) the needs-based allocation of that fund was enacted by Congress and is seen as a fair and reasonable basis for allocation of funds under a revolving fund of this type;

(3) the Administrator of the Environmental Protection Agency also conducts a wastewater infrastructure needs survey that should serve as the basis for the allocation of the State Water pollution control revolving fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.);

(4) the current allocation formula for the State water pollution control revolving fund is so inequitable that it results in some States receiving funding in an amount up to 7 times as much as States with approximately similar populations, in terms of percentage of need met; and

(5) the Senate has proven unwilling to address that inequity in an appropriations bill, citing the necessity of addressing new allocation formulas only in authorization bills.

It is the sense of the Senate that the Committee on Environment and Public Works of the Senate shall be prepared to enact authorizing legislation (including an equitable, needs-based formula) for the State water pollution control revolving fund as soon as practicable after the Senate returns from recess in September.

SA 1339. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, strike all on lines 12 through 14.
by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 703.

SA 1342. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, strike "(1)".

SA 1344. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, strike ", (3), and (7)" and insert "and (3)".

SA 1345. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 5, strike "New York".

SA 1346. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, strike "Pennsylvania".

SA 1347. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 5, strike "Kentucky".

SA 1348. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 4, strike "Kentucky".

SA 1349. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 8, strike "Ohio".

SA 1350. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 22, strike "Texas".

SA 1351. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 17, strike "California".

SA 1352. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 17, strike "Oregon".

SA 1353. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 18, strike "Washington".

SA 1354. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 3, 2001."

SA 1355. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 4, 2001."

SA 1356. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 5, 2001."

SA 1357. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

"(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 6, 2001."

SA 1358. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 7, 2001."

SA 1359. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 8, 2001."

SA 1360. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 9, 2001."

SA 1361. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: "(3) DURATION.

"Consent for the Northeast Interstate Dairy Compact shall terminate on August 10, 2001."

SA 1362. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:
On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 12, 2001.”

SA 1364. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 13, 2001.”

SA 1365. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 14, 2001.”

SA 1366. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 15, 2001.”

SA 1367. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 16, 2001.”

SA 1368. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 17, 2001.”

SA 1369. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 18, 2001.”

SA 1370. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 19, 2001.”

SA 1371. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 20, 2001.”

SA 1372. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 21, 2001.”

SA 1373. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 22, 2001.”

SA 1374. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 23, 2001.”

SA 1375. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 24, 2001.”

SA 1376. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 25, 2001.”

SA 1377. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 26, 2001.”

SA 1378. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: “; and inserting in lieu of paragraph (3) the following:

“(3) DURATION.—

“Consent for the Northeast Interstate Dairy Compact shall terminate on August 27, 2001.”
SA 1379. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 2, 2001.’’

SA 1380. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on August 28, 2001.’’

SA 1381. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on August 29, 2001.’’

SA 1382. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on August 30, 2001.’’

SA 1383. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 1, 2001.’’

SA 1384. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 8, 2001.’’

SA 1385. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 10, 2001.’’

SA 1386. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 3, 2001.’’

SA 1387. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 4, 2001.’’

SA 1388. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 5, 2001.’’

SA 1389. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 7, 2001.’’

SA 1390. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 9, 2001.’’

SA 1391. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 11, 2001.’’

SA 1392. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 12, 2001.’’

SA 1393. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 13, 2001.’’

SA 1394. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: ‘‘; and inserting in lieu of paragraph (3) the following: ‘‘(3) DURATION.—’’

‘‘Consent for the Northeast Interstate Dairy Compact shall terminate on September 14, 2001.’’

SA 1395. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:
SA 1396. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 15, 2001.”

SA 1397. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 16, 2001.”

SA 1398. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 17, 2001.”

SA 1399. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 18, 2001.”

SA 1400. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 19, 2001.”

SA 1401. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 21, 2001.”

SA 1402. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 22, 2001.”

SA 1403. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 23, 2001.”

SA 1404. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 24, 2001.”

SA 1405. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 25, 2001.”

SA 1406. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 26, 2001.”

SA 1407. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 27, 2001.”

SA 1408. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 28, 2001.”

SA 1409. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 29, 2001.”

SA 1410. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: On page 2, line 7, insert before the semicolon the following: “, and inserting in lieu of paragraph (3) the following:” (3) DURATION. “Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.”

SA 1411. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows: At the end of the matter proposed to be inserted, insert the following: “Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 30, 2001.”

SA 1412. Mr. FEINGOLD submitted an amendment intended to be proposed
by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 29, 2001."

SA 1413. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 26, 2001."

SA 1414. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 27, 2001."

SA 1415. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 26, 2001."

SA 1416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 29, 2001."

SA 1417. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 24, 2001."

SA 1418. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 19, 2001."

SA 1419. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 29, 2001."

SA 1420. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 22, 2001."

SA 1421. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 21, 2001."

SA 1422. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 20, 2001."

SA 1423. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 19, 2001."

SA 1424. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 18, 2001."

SA 1425. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 17, 2001."

SA 1426. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 16, 2001."

SA 1427. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 15, 2001."

SA 1428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 14, 2001."

SA 1429. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 13, 2001."

SA 1430. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 12, 2001."

SA 1431. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:
by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 11, 2001.”

SA 1431. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 12, 2001.”

SA 1432. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 10, 2001.”

SA 1433. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 9, 2001.”

SA 1434. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 8, 2001.”

SA 1435. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 7, 2001.”

SA 1436. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 6, 2001.”

SA 1437. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 5, 2001.”

SA 1438. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 4, 2001.”

SA 1439. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 3, 2001.”

SA 1440. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 2, 2001.”

SA 1441. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 1, 2001.”

SA 1442. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 31, 2001.”

SA 1443. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 30, 2001.”

SA 1444. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 29, 2001.”

SA 1445. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 28, 2001.”

SA 1446. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 27, 2001.”

SA 1447. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 26, 2001.”

SA 1448. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

“Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 25, 2001.”
by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 24, 2001."

SA 1449. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 21, 2001."

SA 1450. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 20, 2001."

SA 1451. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 19, 2001."

SA 1452. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 18, 2001."

SA 1453. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 17, 2001."

SA 1454. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 16, 2001."

SA 1455. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 15, 2001."

SA 1456. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 14, 2001."

SA 1457. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 13, 2001."

SA 1458. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 8, 2001."

SA 1459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 7, 2001."

SA 1460. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 11, 2001."

SA 1461. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 10, 2001."

SA 1462. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 9, 2001."

SA 1463. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 8, 2001."

SA 1464. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 7, 2001."
by him to the bill S. 1236, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 6, 2001."

SA 1467. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1236, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 4, 2001."

SA 1468. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1236, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

"Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 3, 2001."

SA 1469. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1236, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 12, between lines 3 and 4, insert the following:

(c) DAIRY MARKET MITIGATION PAYMENTS.—

(1) IN GENERAL.—The Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make a payment, in an amount equal to $5,000, to the producers on each farm that, during the period ending on the date of enactment of this Act, was engaged in the commercial production of milk in an area covered by the Northeast Interstate Dairy Compact; and

(2) COMPACT ADJUSTMENT PAYMENTS.—The Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make a payment, in an amount equal to $2,500, to the producers on each farm that, during the period ending on the date of enactment of this Act, was engaged in the commercial production of milk in an area covered by the Northeast Interstate Dairy Compact.

Mr. REID. Mr. President, I ask unanimous consent that the Senate resolve itself into the Committee of the Whole House on the State of the Union, to conduct a markup on the Senate Amendments to the bill S. 1236, and that the report of the Committee of the Whole be printed in the Congressional Record at the conclusion of the session.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 2, 2001, at 10 a.m., to conduct a business meeting. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCIAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Financial Services be authorized to meet in open executive session during the session of the Senate on Thursday, August 2, 2001. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, August 2, 2001, at 9:30 a.m., for a business meeting to consider pending committee business. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the nomination of John Lester Henshaw, of Missouri, to be an Assistant Secretary of Labor, Occupational Safety and Health Administration during the session of the Senate on Thursday, August 2, 2001, at 10 a.m. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, August 2, 2001, at 10 a.m., in Dirksen Building room 226. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on August 2, 2001, at 9 a.m., to hold a markup to consider the following legislation: S. 565, the "Equal Protection of Voting Rights Act of 2001"; an original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; S.J. Res. 19 and 20, providing for the reappointment of Anne Harkness and the appointment of Roger W. Sant, respectively, as Smithsonin Institution citizen regents; and other legislative and administrative matters ready for consideration at the time of the markup.

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

COMMITTEE ON VETERANS’ AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet
during the session of the Senate on Thursday, August 2, 2001, for a hearing on the nominations of John A. Gauss to be Assistant Secretary of Veterans Affairs for Information and Technology, and Claude M. Kicklighter to be Assistant Secretary of Veterans Affairs for Policy and Planning, followed by a markup on pending legislation.

Committee Print of S. 739, the proposed "Heather French Henry Homeless Veterans Assistance Act."

Committee Print of S. 1088, the proposed "Veterans Benefits Improvement Act of 2001."

Committee Print of S. 1090, the proposed "Veterans Compensation Cost-of-Living Adjustment Act of 2001.

Committee Print of S. 1188, the proposed "Department of Veterans Affairs Medical Programs Enhancement Act of 2001."

"The meeting will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on Thursday, August 2, 2001, to conduct a hearing on "Comprehensive Deposit Insurance Reform: Responses to the FDIC Recommendations for Reform."

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, August 2, 2001, at 2:15 p.m., in open session to receive testimony on installation programs, military construction programs, and family housing programs, in review of the Defense Authorization request for fiscal year 2002.

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

PRIVILEGES OF THE FLOOR

Mrs. LINCOLN. Madame President, I ask unanimous consent that the privilege of the floor be granted to one of my staff members, Matt Fryar.

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

On August 1, 2001, the Senate amended and passed H.R. 2299, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2299) entitled "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes."

does pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary, $67,349,000: Provided, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses; provided further, That no part of any appropriated funds may be used for the purchase of any property or other objects of personal use; provided further, That the above limitation on non-personal expenses shall not apply to non-DOT entities:

Transportation Administration Administrative Service Center

Necessary expenses for operating costs and capital outlays of the Transportation Administration Administrative Service Center, not to exceed $125,323,000, shall be from appropriations made available to the Department of Transportation: Provided, That such services shall be provided on a fee basis to entities within the Department of Transportation: Provided further, That the above limitation on operating expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administration Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any agency modal administrator: Provided further, That any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the provisions of the Rail-Ground Coordination Act of 1994, $6,592,000 shall be for guarantees, guarantees to remain available until September 30, 2002, and for the Committee on Appropriations: Provided further, That none of the funds appropriated in this Act shall be used to provide new aircraft and increase aviation capability, to remain available until September 30, 2004; $97,521,000 shall be available for other equipment, to remain available until September 30, 2004; $88,862,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2004; $50,000,000 shall be available for compensation and benefits and related costs, to remain available until September 30, 2003; $325,200,000 for the Integrated Deepwater System program, to remain available until September 30, 2006: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be used for the purposes of this appropriation as offsetting collections and made available only for the National Distress and Response System Modernization program, to remain available for obligation until September 30, 2004: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) integration contract until the Secretary or Deputy Secretary of Transportation and the Director, Office of Management and Budget jointly certify to the House and Senate Committees on Appropriations that funding for the IDS program for fiscal years 2003 through 2007, funding for the National Distress and Response System Modernization program to allow for manning of the system by 2006, and funding for other essential Search and Rescue procurements, are fully funded in the Coast Guard Capital Investment Plan and within the Department of Management and Budget projections for the Coast Guard for those years: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) integration contract until the Secretary or Deputy Secretary of Transportation, and the
For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to the certification and registration of aircraft, and repair station certificates, or for expenses incurred for research, development, test, and evaluation.

FEDERAL AVIATION ADMINISTRATION OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to the certification and registration of aircraft, and administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of air traffic control facilities, reacquisition of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement of vehicles not available by Public Law 104-264, $6,916,000,000, of which $5,777,219,000 shall be derived from the Airport and Airway Trust Fund; Provided, That none of the funds appropriated under this heading shall be available to reimburse the Coast Guard for a cost at over $25,000,000 of funds made available by Public Law 104-264, $876,346,000.

ENVIROMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard’s environmental compliance and restoration functions under chapter 19 of title 49, United States Code, $18,927,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

RETIRED PAY

For retiried pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceemen’s Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $876,346,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve as authorized by law; maintenance and operation of facilities, and supplies, equipment, and services, $83,194,000: Provided, That no more than $25,800,000 of funds made available under this heading may be transferred to the Coast Guard “Operating expenses” or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: Provided further, That none of the funds in this act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 2001.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, and operation of facilities and equipment, as authorized by law, $21,722,000, to remain available until expended, of which $3,492,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, for expenses incurred for research, development, test, and evaluation.

AERIAL TRANSPORTATION AND NAVIGATION ACT

For necessary expenses for the operation of services and activities provided for under part A of subtitle VII of title 49, United States Code, including maintenance and operation of air navigation facilities, $2,536,900,000 shall remain available until September 30, 2004: Provided, That in the discretion of the Secretary, $3,300,000,000 in fiscal year 2002, notwithstanding any other provision of law, not more than $64,597,000 of funds limited under this heading shall be obligated for the planning or execution of programs the obligations for which are in excess of $330,000,000 in fiscal year 2002, permitted under section 47117(h) of such title, and for inspection activities, $473,000,000, of which not more than $106,000,000 may be used for new applicants for the second career training program: Provided further, That none of the funds under this heading shall be available for the inspection activities under such title.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such obligations and expenditures, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9014), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49 U.S.C., to remain available until expended.

GRANTS-IN-AID FOR AIRPORTS

(ACCOUNTING FOR CONTRACT AUTHORIZATION)

For necessary expenses to carry out the Small Community Air Service Development Pilot Program under section 47434 of title 49, United States Code, $20,000,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administrative and operation of the Federal Highway Administration, not to exceed $116,521,000, of which not more than $25,000,000 shall be available to the National Scenic Byway Program, $500,000 to the State and tribal projects under the Kulte- spell, Montana Bypass Project, and the remainder shall be paid in accordance with law from
appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That the funds made available under section 104(a) of title 23, United States Code: $7,500,000 shall be available for "Child Passenger Protection Education Grants" under section 2003(b) of Public Law 105–159; $7,000,000 shall be available for motor carrier safety research; $375,000 shall be available for a traffic project for Auburn University; and $11,000,000 shall be available for the motor carrier crash data improvement program, the commercial driver’s license improvement program, and the motor carrier 24-hour telephone hotline.

FEDERAL-AID HIGHWAYS (INCLUDING RESCISSION OF CONTRACT AUTHORIZATIONS) (HIGHWAY TRUST FUND)
None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,919,103,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002: Provided, That within the $31,919,103,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $447,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, and 508 of title 23, United States Code, as amended; section 505 of title 49, United States Code, as amended; and sections 5112 and 5204 of Public Law 105–178) for fiscal year 2002. That within the $225,000,000 obligation limitation on Intelligent Transportation Systems, the following sums shall be made available for Intelligent Transportation Systems projects that are designed to achieve the goals and purposes set forth in section 5203 of the Intelligent Transportation Systems Act of 1998 (subtitle C of title V of Public Law 105–172, 49 U.S.C. 502 note) in the following specified areas: Indiana Statewide, $1,500,000; Southeast Corridor, Colorado, $9,900,000; Jackson Metropolitan, Mississippi, $1,000,000; Harrison County, Mississippi, $1,000,000; Indiana, SAFE-T, $3,000,000; Maine Statewide (Rural), $1,000,000; Atlanta Metropolitan GRTA, Georgia, $1,000,000; Mango, Idaho, $2,000,000; Washington Metropolitan Region, $4,000,000; Travel Network, South Dakota, $3,200,000; Central Ohio, $3,000,000; Delaware Statewide, $4,000,000; TMetaC, $1,500,000; Fargo, North Dakota, $1,500,000; Illinois Statewide, $5,750,000; Forsyth, Guilford Counties, North Carolina, $2,000,000; Durham, Wake Counties, North Carolina, $1,000,000; Chattanoogia, Tennessee, $2,380,000; Nevada Statewide, $5,000,000; South Carolina Statewide, $7,000,000; Texas Statewide, $4,000,000; Hawaii Statewide, $1,750,000; Wisconsin Statewide, $22,000,000; Arizona Statewide EMS, $1,900,000; Vermont Statewide (Rural), $1,500,000; Rutland (Vermont), $1,000,000; Detroit, Michigan (Airport), $4,500,000; Macomb, Michigan (border crossing), $2,000,000; Sacramento, California, $6,000,000; Lexington, Kentucky, $1,500,000; Maryland Statewide, $2,000,000; Clark County, Washington, $1,000,000; Washburn, North Dakota, $6,000,000; Southern Nevada (bus), $2,200,000; Santa Anita, California, $1,000,000; Las Vegas, Nevada, $3,000,000; North Carolina (Charlotte—Charlotte-Douglas Int’l), $1,000,000; New York, New Jersey, Connecticut (TRANSCOM), $7,000,000;
For necessary expenses for the costs of planning, delivery, and temporary use of transit vehicles for special transportation needs benefiting its passenger operations, to remain available until expended.

ALASKA RAILROAD REHABILITATION
To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

National Rail Development and Rehabilitation
To enable the Secretary to make grants and enter into contracts for the development and rehabilitation of rail infrastructure, $2,600,000, to remain available until expended.

Capital Grants to the National Railroad Passenger Corporation
For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

Federal Transit Administration Administrative Expenses
For necessary administrative expenses of the Federal Transit Administration authorized by chapter 53 of title 49, United States Code, $13,400,000: Provided, That no more than $87,000,000 of budget authority shall be available for administrative expenses: Provided further, That not more than $5,000,000 of the funds to carry out 49 U.S.C. 5313(a), $55,422,400 is available for metropolitan cooperative research programs (49 U.S.C. 5315), $8,250,000 is available for grants under section 5313(b)(2), $5,250,000 is available for rural transportation assistance under this Act or the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research assistance program as authorized by section 5311, $15,777,600 is available for State planning (49 U.S.C. 5311(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Trust Fund Share of Expenses (Liquidation of Contract Authorization)
For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: Provided, That no more than $116,000,000 of budget authority shall be available for these purposes: Provided further, That not to exceed $1,200,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administrative grants under chapter 5 of title 42, United States Code: Provided further, That not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administrative grants under chapter 5 of title 42, United States Code: Provided further, That no more than $87,000,000 of budget authority shall be available for administrative expenses: Provided further, That not more than $5,000,000 of the funds to carry out 49 U.S.C. 5313(a), $55,422,400 is available for metropolitan cooperative research programs (49 U.S.C. 5315), $8,250,000 is available for grants under section 5313(b)(2), $5,250,000 is available for rural transportation assistance under this Act or the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research assistance program as authorized by section 5311, $15,777,600 is available for State planning (49 U.S.C. 5311(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Capital Investment Grants (Including Transfer of Funds)
For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $668,200,000, to remain available until expended: Provided, That no more than $3,350,000,000 of budget authority shall be available for these purposes: Provided further, That notwithstanding any other provision of law, there shall be available for fixed guideway systems: Provided further, That $500,000 shall be paid to the national qualifications office of the Federal Transit Administration, $311,357,000, of which $6,159,000 shall remain available until expended.

Railroad Research and Development
For necessary expenses for railroad research and development, $30,325,000, to remain available until expended.

Railroad Rehabilitation and Improvement Program
The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Federal Railroad Retirement Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to that section for the payment of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2002.

Next Generation High-Speed Rail
For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 2601 and 2602, $40,000,000, to remain available until expended.

Alaska Railroad Rehabilitation
To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

National Rail Development and Rehabilitation
To enable the Secretary to make grants and enter into contracts for the development and rehabilitation of rail infrastructure, $12,000,000, to remain available until expended.

Capital Grants to the National Railroad Passenger Corporation
For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

Federal Transit Administration Administrative Expenses
For necessary administrative expenses of the Federal Transit Administration authorized by chapter 53 of title 49, United States Code, $13,400,000: Provided, That no more than $87,000,000 of budget authority shall be available for administrative expenses: Provided further, That not more than $5,000,000 of the funds to carry out 49 U.S.C. 5313(a), $55,422,400 is available for metropolitan cooperative research programs (49 U.S.C. 5315), $8,250,000 is available for grants under section 5313(b)(2), $5,250,000 is available for rural transportation assistance under this Act or the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research assistance program as authorized by section 5311, $15,777,600 is available for State planning (49 U.S.C. 5311(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Trust Fund Share of Expenses (Liquidation of Contract Authorization)
For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: Provided, That no more than $116,000,000 of budget authority shall be available for these purposes: Provided further, That not to exceed $1,200,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administrative grants under chapter 5 of title 42, United States Code: Provided further, That not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administrative grants under chapter 5 of title 42, United States Code: Provided further, That no more than $87,000,000 of budget authority shall be available for administrative expenses: Provided further, That not more than $5,000,000 of the funds to carry out 49 U.S.C. 5313(a), $55,422,400 is available for metropolitan cooperative research programs (49 U.S.C. 5315), $8,250,000 is available for grants under section 5313(b)(2), $5,250,000 is available for rural transportation assistance under this Act or the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research assistance program as authorized by section 5311, $15,777,600 is available for State planning (49 U.S.C. 5311(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Capital Investment Grants (Including Transfer of Funds)
For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $668,200,000, to remain available until expended: Provided, That no more than $3,350,000,000 of budget authority shall be available for these purposes: Provided further, That notwithstanding any other provision of law, there shall be available for fixed guideway systems: Provided further, That $500,000 shall be paid to the national qualifications office of the Federal Transit Administration, $311,357,000, of which $6,159,000 shall remain available until expended.
guideway systems $1,236,400,000, to be available for transit new starts; to be available as follows: $192,492 for Denver, Colorado, Southeast corridor light rail transit project; $3,000,000 for Northeast Indianapolis downtown corridor project; $3,000,000 for Northern Indiana South Shore commuter rail project; $15,000,000 for Salt Lake City, Utah, CBX to University light rail transit project; $6,000,000 for Salt Lake City, Utah, University Medical Center light rail transit extension project; $2,000,000 for Salt Lake City, Utah, Ogden-Provo commuter rail project; $4,000,000 for Wilmington, Delaware, Transit Corridor project; $500,000 for Yosemite Area Regional Transportation System project; $60,000 for Denver, Colorado, Southeast corridor light rail transit project; $10,000,000 for Kansas City, Missouri, Central Corridor Light Rail transit project; $25,000,000 for Atlanta, Georgia, MARTA extension project; $2,000,000 for Marine Highway development project; $151,000,771 for New Jersey, Hudson-Bergen light rail transit project; $20,000,000 for Newark-Elizabeth, New Jersey, rail link project; $3,000,000 for New Jersey Urban Core Newark Penn Station improvements project; $7,000,000 for Cleveland, Ohio, Euclid corridor extension project; $2,000,000 for Albuquerque, New Mexico, light rail project; $35,000,000 for Chicago, Illinois, Douglas branch reconstruction project; $5,000,000 for Chicago, Illinois, Ravenswood line extension project; $24,223,268 for St. Louis, Missouri, Metrolink St. Clair extension project; $30,000,000 for Chicago, Illinois, Metra North central, South West, Union Pacific commuter project; $10,000,000 for Charlotte, North Carolina, South corridor light rail transit project; $9,000,000 for Raleigh, North Carolina, Triangle transit project; $63,000,000 for San Diego, California, Mission Valley East light rail transit extension project; $10,000,000 for Los Angeles, California, East Side corridor light rail transit project; $10,000,000 for San Francisco, California, BART extension project; $9,289,557 for Los Angeles, California, North Hollywood extension project; $2,000,000 for St. Cloud, California, Altamont commuter rail project; $113,336 for San Jose, California, Tasman West, light rail transit project; $6,000,000 for Nashville, Tennessee, Commuter rail project; $19,170,000 for Memphis, Tennessee, Medical Center light rail extension project; $150,000 for Des Moines, Iowa, DSM bus feasibility project; $100,000 for Macro Vision Pioneer, Iowa, light rail feasibility project; $3,500,000 for Sioux City, Iowa, light rail project; $300,000 for Dubuque, Iowa, light rail feasibility project; $2,000,000 for Charleston, South Carolina, Monobeam project; $5,000,000 for Anderson County, South Carolina, transit system project; $70,000,000 for Dallas, Texas, North central light rail transit extension project; $25,000,000 for Houston, Texas, Metro advanced transit plan project; $4,000,000 for Fort Worth, Texas, Trinity railway express project; $12,000,000 for Honolulu, Hawaii, Bus rapid transit system project; $10,631,243 for Boston, Massachusetts, South Boston Piers transitway project; $1,000,000 for Boston, Massachusetts, Urban ring transit project; $4,000,000 for Kenosha-Racine, Milwaukee Wisconsin, community extension project; $23,000,000 for New Orleans, Louisiana, Canal Street car line project; $7,000,000 for New Orleans, Louisiana, Airport CBD commuter rail project; $3,000,000 for Burlington, Vermont, Burlington to Middlebury rail line project; $1,000,000 for Detroit, Michigan, light rail airport link project; $1,500,000 for Grand Rapids, Michigan, TPF metro area, major corridor project; $500,000 for Iowa, Metrolink light rail feasibility project; $6,000,000 for Fairfield, Connecticut, Commuter rail project; $4,000,000 for Stamford, Connecticut, Urban transitway project; $7,000,000 for Little Rock, Arkansas, River rail project; $14,000,000 for Maryland, MARC commuter rail improvements projects; $3,000,000 for Baltimore, Maryland rail transit project; $60,000,000 for Long Island, Maryland, metrorail extension project; $18,110,000 for Baltimore, Maryland, central light rail transit double track project; $24,500,000 for Puget Sound, Washington, Sounder commuter rail project; $30,000,000 for Fort Lauderdale, Florida, Tri-County commuter rail project; $8,000,000 for the TPF Green, Rhode Island, commuter rail and maintenance facility project; $1,500,000 for Johnson County, Kansas, commuter rail project; $20,000,000 for Long Island Railroad, New York, east side access project; $3,500,000 for New York, New York, Second Avenue subway project; $4,000,000 for Birmingham, Alabama, transit corridor project; $5,000,000 for Nashua, New Hampshire-Lowell, Massachusetts, commuter rail project; $10,000,000 for Pittsburgh, Pennsylvania, North Shore connector light rail extension project; $13,000,000 for Philadelphia, Pennsylvania, Schuylkill Valley metro project; $3,000,000 for Philadelphia, Pennsylvania, Cross County metro project; $20,000,000 for Pittsburgh, Pennsylvania, stage II light rail transit reconstruction project; $2,500,000 for Scranton, Pennsylvania, rail service to New York City project; $2,500,000 for Wasilla, Alaska, alternate route project; $1,000,000 for Ohio, Central Ohio North Corridor rail (COTA) project; $4,500,000 for Virginia, VRE station improvements project; $50,000,000 for Twin Cities, Minnesota, Hia- watha Corridor light rail transit project; $70,000,000 for Portland, Oregon, Interstate MAX light rail transit extension project; $35,149,000 for San Juan, Tren Urbano project; $10,296,000 for Alaska and Hawaii Ferry projects.

JOBS ACCESS AND REVERSE COMMUTE GRANTS

Notwithstanding section 3077(l)(3) of Public Law 100-178, as amended, for necessary expenses to carry out section 3077 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: Provided, That no more than $25,000,000 of budget authority shall be available for these purposes: Provided further, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation’s budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $13,345,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-682.

RESEARCH AND SPECIAL PROGRAMS

ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $41,993,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $5,434,000 shall remain available until September 30, 2004: Provided, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: Provided further, That there may be credited to this appropriation, to the extent of funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for republication of publication costs, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(Pipeline Safety Fund)

(OLI SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $58,750,000, of which $11,472,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2003; and $47,278,000 shall be derived from the Pipeline Safety Fund, of which $39,828,000 shall remain available until September 30, 2004.

EMERGENCY PREPAREDNESS GRANTS

(Emergency Preparedness Fund)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2004: Provided, That not more than $14,300,000 shall be made available for obligation in fiscal year 2002 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): Provided further, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $50,500,000: Provided, That none of the Inspector General funds shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: Provided further, That none of the funds made available under this heading shall be used to investigate, pursuant to section 4712 of title 49, United States Code: (1) unfair

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or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) contained under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety programs for the previous fiscal year that are apportioned to each State for such fiscal year.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with the following:

(1) the obligation limitation for Federal-aid Highways that is less than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,620,000,000 (Michigan development highway system programs that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year, the ratio that—

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall acquire such funds that exceed the obligation limitation for Federal-aid Highways, provided that funds that exceed the obligation limitation for such fiscal year may be used for any purpose authorized under paragraph (2).
fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(2). The funds so appropriated shall be available for any purposes described in section 133(b) of title 23, United States Code.


SEC. 317. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 318. None of the funds in this Act shall be available to plan, finalize, or implement regulation, or to any other authority previously made available for obligation.

SEC. 319. Effective on the date of enactment of this Act, of the funds made available under section 110(a)(12) of Public Law 105–176, as amended, $9,231,000 are rescinded.

SEC. 320. Beginning with fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.

SEC. 321. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicular-related elements of such vessels and facilities for repair facilities: Provided, That not more than $1,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate ferry service between the islands of Hawaii and Molokai: Provided further, That such funds are subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 322. Notwithstanding section 11 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds may be used to support projects to test the viability of different intra-island and inter-island ferry routes.

SEC. 323. None of the funds in this Act are subject to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 324. Notwithstanding section 11 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds may be used to support projects to test the viability of different intra-island and inter-island ferry routes.
for the Calais, Maine Douneast Heritage Center, access, parking, and pedestrian improvements, to remain available until expended.

SEC. 332. Section 648 of title 14, United States Code, is amended by inserting the words "Coast Guard Yard and other Coast Guard specialized facilities designated by the Commandant" after the words "Coast Guard Yard" and inserting after the words "Coast Guard Yard" and "other Coast Guard specialized facilities designated by the Commandant" the words "and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection and may accept contributions of funds, materials, services, and the use of facilities from such entities. "

(b) For providing support to the Department of Defense, the Commandant may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection may be credited to appropriate Coast Guard accounts for fiscal year 2002 and for each fiscal year thereafter.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $100,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the Chronic Disease prevention and control, or any relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the Federal Transit Assistance Program or the modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 334. INCREASE IN MOTOR CARRIER FUNDING. (a) IN GENERAL.—Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated on the Federal Highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the Federal Highway Administration shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety programs funded in this Act so deducted shall remain available until expended.

(b) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.

SEC. 335. For an airport project that the Administrator of the Federal Aviation Administration designates as the primary Acquisition, construction, and improvement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 336. None of the funds made available in this Act may be used to further any efforts to acquire and accept for the Coast Guard specified facilities, including facilities located on the islands of Okinawa, and to and inserting after the words "Coast Guard Yard" and "other Coast Guard specialized facilities designated by the Commandant" the words "and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection and may accept contributions of funds, materials, services, and the use of facilities from such entities. "

(b) For providing support to the Department of Defense, the Commandant may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection may be credited to appropriate Coast Guard accounts for fiscal year 2002 and for each fiscal year thereafter.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $100,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the Chronic Disease prevention and control, or any relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the Federal Transit Assistance Program or the modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 334. INCREASE IN MOTOR CARRIER FUNDING. (a) IN GENERAL.—Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated on the Federal Highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the Federal Highway Administration shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety programs funded in this Act so deducted shall remain available until expended.

(b) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.

SEC. 335. For an airport project that the Administrator of the Federal Aviation Administration designates as the primary Acquisition, construction, and improvement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 336. None of the funds made available in this Act may be used to further any efforts to acquire and accept for the Coast Guard specified facilities, including facilities located on the islands of Okinawa, and to and inserting after the words "Coast Guard Yard" and "other Coast Guard specialized facilities designated by the Commandant" the words "and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection and may accept contributions of funds, materials, services, and the use of facilities from such entities. "

(b) For providing support to the Department of Defense, the Commandant may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection may be credited to appropriate Coast Guard accounts for fiscal year 2002 and for each fiscal year thereafter.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $100,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the Chronic Disease prevention and control, or any relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the Federal Transit Assistance Program or the modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 334. INCREASE IN MOTOR CARRIER FUNDING. (a) IN GENERAL.—Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated on the Federal Highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the Federal Highway Administration shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety programs funded in this Act so deducted shall remain available until expended.

(b) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.
required State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

(2) The costs and time required to ensure adequate to conduct such evaluations and inspections.

(3) The poor condition of highway, railway, and waterway infrastructure, increases in the volume of hazardous chemical transport, and proposed increases in radioactive material transport increase the risk of accidental releases of hazardous chemicals between 1978 and 1995, and during that period industry reported 8 transportation accidents involving the small volume of high level radioactive waste transported during that period.

(4) Mitigating the impact of hazardous chemical and radioactive material transportation accidents requires skilled and well-equipped emergency response personnel along all specifically identified transportation routes. Improved land-based and aerial surveillance of radioactive material transport pose threats to the public health and safety, the environment, and the economy.

(c) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall address the following matters:

(1) Whether the Federal Government conducts inspections of specific transportation routes contemplated for such chemical and radioactive material transport.

(2) Measuring the risks of hazardous chemical or radioactive material accidents and preventing such accidents requires specific information concerning the condition and suitability of specific transportation routes contemplated for such transport to inform and enable investment in related infrastructure.

(3) The Secretary of Transportation shall, in consultation with the Comptroller General of the United States, conduct a study of the hazards and risks to public health and safety, the environment, and the economy associated with the transportation of hazardous chemicals and radioactive material.

(b) STUDY.—The Secretary of Transportation shall—

(1) Whether the Federal Government conducts inspections of specific transportation routes contemplated for such chemical and radioactive material transport.

(2) Measuring the risks of hazardous chemical or radioactive material accidents and preventing such accidents requires specific information concerning the condition and suitability of specific transportation routes contemplated for such transport to inform and enable investment in related infrastructure.

(3) The Secretary of Transportation shall, in consultation with the Comptroller General of the United States, conduct a study of the hazards and risks to public health and safety, the environment, and the economy associated with the transportation of hazardous chemicals and radioactive material.

(c) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall address the following matters:

(1) Whether the Federal Government conducts inspections of specific transportation routes contemplated for such chemical and radioactive material transport.

(2) Measuring the risks of hazardous chemical or radioactive material accidents and preventing such accidents requires specific information concerning the condition and suitability of specific transportation routes contemplated for such transport to inform and enable investment in related infrastructure.
of the Act.

SEC. 354. STUDY OF MISSISSIPPI RIVER BRIDGE IN MINGHamm, Tennesseem, metropolitan area.

SEC. 355. (a) Congress makes the following findings:

(1) Section 345 of the National Highway System Designation Act of 1995 authorizes United States Title 23, United States Code, for construction of Type II noise barriers, including accidents involving the transportation of such chemicals and materials, including accidents involving the transportation of such chemicals and materials by those means.

(a) Deadline for Completion.—The study under subsection (b) shall be completed not later than six months after the date of the enactment of this Act.

(b) Study.—Upon completion of the study under subsection (b), the Secretary shall submit to Congress a report on the study.

(1) Of the funds apportioned by title I for the Federal Railroad Administration under the heading "RAILROAD RESEARCH AND DEVELOPMENT", up to $750,000 may be expended to pay 25 percent of the total cost of a comprehensive study of the feasibility of increasing or maintaining the freight and passenger rail infrastructure in the vicinity of Baltimore, Maryland, that the Secretary of Transportation shall carry out through the Federal Railroad Administration in cooperation with, and with a total amount of equal funding contributed by, Norfolk-Southern Corporation, CSX Corporation, and the State of Maryland.

(2) The study shall include an analysis of the condition, track, and clearance limitations and efficiency of the existing tunnels, bridges, and other railroad facilities owned or operated by CSX Corporation, Amtrak, and Norfolk-Southern Corporation in the Baltimore area.

(3) The study shall include an evaluation of the benefits and costs of various alternatives for reducing congestion and improving safety and efficiency in the operations on the rail infrastructure in the vicinity of the Baltimore area, including such alternatives for improving operations as shared usage of track, and such alternatives for improving the rail infrastructure as possible improvements to existing tunnels, bridges, and other railroad facilities, or construction of new facilities.

(c) Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to Congress. The report shall include recommendations on the matters described in subsection (b)(2).

SEC. 352. PRIORITY HIGHWAY PROJECTS, GEORGIA. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the State of Georgia shall give priority consideration to the following projects:

(1) Improving Johnson Ferry Road from the Chattahoochee River to Abernathy Road, including the bridge over the Chattahoochee River.

(2) Widening Abernathy Road from 2 to 4 lanes from Johnson Ferry Road to Roswell Road.

SEC. 353. SAFETY BELT USE LAW REQUIREMENTS. (a) Section 104(a) of the National Highway System Designation Act of 1995 (109 Stat. 524) is amended by striking "has achieved" and all that follows and inserting the following: "has achieved a safety belt use rate of not less than 50 percent.

(b) It is the sense of Congress that the Secretary of Transportation to determine by rulemaking proceedings that the exemptions granted are not in the public interest and adversely affect the safety of commercial motor vehicles.

(3) Subsection (d) of that section requires the Secretary of Transportation to determine by rulemaking proceedings that the exemptions granted are not in the public interest and adversely affect the safety of commercial motor vehicles.

SEC. 356. Section 41703 of title 49, United States Code, is amended by adding at the end the following:

(1) D EADLINE FOR COMPLETION.—For purposes of subsection (c) of this section, cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by one or more air carriers or foreign air carriers in either direction between any place in the United States and a place not in the United States shall not be deemed to have broken its international journey, be taken on, or be destined for Alaska.

SEC. 357. Point Rezert Light Station, including all property under lease as of June 1, 2000, is transferred to the Alaska Lighthouse Association.

SEC. 358. PRIORITY HIGHWAY PROJECTS, M INNESOTA. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the State of Minnesota shall give priority consideration to the following projects:

(a) The Southeast Main and Rail Relocation Project in Moorhead, Minnesota.

(b) Improving access to and from I-35 W at Lake Street in Minneapolis, Minnesota.

SEC. 359. NOTwithstanding any other provision of law, the Secretary of Transportation shall approve the use of funds pursuant to subparagraph (A) and (B) of section 104(b) of title 23, United States Code, for construction of Type II noise barriers:

(1) at the locations identified in section 358 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (113 Stat. 1027); and

(2) on the west side of Interstate Route 285 from Henderson Mill Road to Chamblee Tucker Road in DeKalb County, Georgia.

SEC. 360. The Secretary is directed to give priority consideration to applications for airport improvement grants for the Addison Airport in Addison, Texas, Pearson Airport in Vancouver, Washington, Mobile Regional Airport in Mobile, Alabama, Madison Municipal Airport in Mississippi, and Birmingham International Airport in Birmingham, Alabama.
Mr. DASCHLE. Madam President, I ask unanimous consent that the closure vote on the Agriculture supplemental authorization bill occur at 9:30 on Friday, August 3, with the mandatory quorum waived; further, that Senators have until 10 a.m. to file second-degree amendments.

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

Mr. DASCHLE. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

The resolution (S. Res. 149) was sponsored by Senator Baucus and Senator Byrd. The resolution (S. Res. 149) is located in today's Record under "Introduced Bills and Joint Resolutions."

Mr. LINCOLN. Madam President, I am here today because of the outpouring of frustration and I suppose a very deep sense of dedication, maybe because I am from a seventh-generation Arkansas farm family, maybe because I am a daughter of a farmer who I watched for many years toiling to ensure that he could put food and allow for a good heritage to his family, working on that family farm.

Maybe it is because I have watched neighbors and family members who have had to give up a way of life and a profession, a piece of their heritage, because they were unsure of where their Government was going to be for them as family farmers. Or perhaps it is because they were inundated by so many things that were unpredictable, things they could not control such as the weather or the economy or the fact that their Government could not make a decision as to whether the family farmer was important enough to support and to keep in business.

I am really here because, in the 11th hour, I still take my job very seriously. That job is to be here to fight hard, to do everything I can to support that American farmer and that farmer in Arkansas who has spent this entire year trying to put out a crop and wondering whether or not his or her Government was going to come through in the end with an emergency supplemental appropriation as we promised.

I am here to talk about agriculture and to talk about the rural economic crisis that we are going through, and the Government was not going to come through in the end. That is the worst that could happen.

Mr. DASCHLE. Madam President, I am here today because of the outpouring of frustration and I suppose a very deep sense of dedication, maybe because I am from a seventh-generation Arkansas farm family, maybe because I am a daughter of a farmer who I watched for many years toiling to ensure that he could put food and allow for a good heritage to his family, working on that family farm.

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every year that the Government is willing to provide to help them compete in that global marketplace. What happened? We are coming now and asking them to take even less in that emergency assistance.

I don't blame Republicans and I don't blame Democrats. I blame all of us because we are all responsible if we are unable to come together because we are ready to go home or because we are tired and we don't want to do our job by coming together and getting a package in place and sending it out to rural America.

I plead with the President. He visited with Young Farmers of America the other day and talked about how agriculture and farmers are the soul of America. Let me tell you, they need us right now. They need us a lot.

It is our duty at this point not to be tired, not to go home, but to sit down with one another and talk about how we can come together to provide them what they need. It is no wonder that the citizens of this country are cynical about what goes on in Washington. Farmers have been out there toiling all year and for centuries—many centuries ago—to provide us with the safest, most dependable and affordable food supply in this world.

I think it certainly behooves us to stay a few extra hours to come up with something that is going to be the best possible job and the best possible package for our American farmers. They look for farm support and all they see is another showdown at the OK Corral. Only it isn't Congress. It is our farmers, and our rural economy, and the people who live in these communities who are in the line of fire. We need to put our guns back in our holsters, and we need to find some resolution to this impasse.

I, for one, am ready to stay here and do the job that the people of Arkansas sent me here to do; that is, to work out an agreement and come up with the solutions on behalf of those people who ensure that I and my children, and you and your children, have a safe, abundant, and affordable food supply day in and day out.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President. I thank the Senator from Arkansas for the very poignant speech she just gave about the plight of agriculture in America. Senator LINCOLN has said it succinctly and with meaning and I think with a passion that she rightly has to fight for the people who live in our small towns and communities—our farmers. She is right. They are hurting. We have to pay attention.

We are operating under the failed Freedom to Farm bill that was passed back in 1996. Year after year we have had to come in and patch it up, fix it up, and put in supplemental payments to keep our farmers alive, to keep their heads above water.

It is another reason why in the new farm bill we have to make the changes necessary to get off of the old failed Freedom to Farm bill and to have a farm bill where we don't have to rely on a yearly basis on a fickle Congress or a fickle President.

We have come up with a bill out of our Agriculture Committee that would at least provide for our farmers the same payment they received last year to help keep them going. But, even with those payments, it won't make up for the increased fuel prices and fertilizer prices and everything else.

I have heard from the administration that the reason they don't want the bill we reported out of the Committee is because they have seen net farm income go up this year. I am sorry. I don't know what figures they are looking at. I think what they are saying is last year our farm prices were at a 15-year low. Farm income is a little better this year but the increase comes almost entirely from increased livestock prices—not grain prices. Prices are still in the basement. But the bill before us provides money to the crop farmers. They are the ones who have been left out by the President. The President said no, that he is going to veto the bill because he said farmers don't need that much money. Keep in mind that the bill is within our budget guidelines. We are doing exactly what the budget allows us to do, but the President says no, it is too much money.

This is the difference. I have to point this out. In the fall of 1998, Congress passed emergency relief for farmers. It went to the White House. President Clinton vetoed it because it wasn't enough to help our farmers. We came back and added more money to keep our farmers alive and well.

This year the Senate passed a bill to provide sufficient support for our farmers. The President says no. He will veto it because it is too much. What a difference.

What do we have here that is costing extra money? We have the full level of market loss and oilseed payments that were in a similar package last year. We also have nutrition, rural economic development and conservation money. We have money for several conservation programs, including the Wetlands Reserve Program, the Wildlife Habitat Incentives Program, the Farmland Protection Program, the Environmental Quality Incentives Program.

Right now for the Wetlands Reserve Program we have a backlog of $568 million nationwide. Here are the top 10 States with the backlog: Arkansas, Iowa, California, Louisiana, Missouri, Florida, Minnesota, Illinois, Michigan, and Mississippi.

Our bill provides $200 million to cut that backlog down by over a third. It would enroll 150,000 acres in the Wetlands Reserve Program. The President says no. That is too much.

For the Wildlife Habitat Incentives Program, the backlog is $14 million. We have put in $7 million to cut it down by half. Again, the top 10 States are Oregon, Texas, Florida, West Virginia, Arkansas, Colorado, Maine, Michigan, Arkansas, and South Dakota. We had $7 million, and the President says no. Too much.

The Farmland Protection Program is a program that provides some money for the state and local governments and non-profit groups so they can buy development easements from farmers to stop the urban sprawl. There is a $325 million backlog. The top 10 States are: California, New York, Maryland, Florida, Pennsylvania, Delaware, Kentucky, Michigan, New Jersey, and Massachusetts.

In that program, we put $40 million to help leverage money supplied by state and local governments, as well as non-profit groups—they are already doing it—to help buy easements to keep the land from being developed for non-agricultural purposes. The President says no, that is too much money.

Finally, we have the Environmental Quality Incentives Program. The backlog is over $1.3 billion. We have $250 million in the bill, plus $200 million already in the law, which would help cut that down by about a third. Again, the top 10 States are: Texas, Oklahoma, Georgia, Arkansas, Kansas, Montana, Kentucky, Nebraska, Tennessee, and Virginia. We put $250 million in the bill. The President says: No, it is too much money.

It is not too much, in any case, to help save our soil and our water, to provide conservation money to farmers and ranchers in America who need the help and who need the support.

The Lugar substitute, that I guess we will be voting on, takes out all this conservation money. It provides zero dollars for conservation. It is rather sad that we are in this situation. We are trying to help farmers be good stewards of their land and the President stands in the way.

As Senator LINCOLN said: Our farmers are good stewards of their land. They try to take good care of it. In many cases, these farmers are spending their own money, using their own equipment, spending their time—and all we are trying to do is give them some help and support. And the President has said: No, that is too much.

We will debate this more tomorrow. But tonight I want to just point out what we have in the bill, to try to help our farmers with conservation. Three of these programs will be put into jeopardy, and all will be underfunded. The Wetlands Reserve Program, the Wildlife Habitat Incentives Program and the Farmland Protection Program will all be put in jeopardy because we will not fund them if the Lugar amendment is adopted.

Finally, I had a lot of conversations with people in the House and OMB today. They want to spend only $5.5 billion. When I asked why, I got the answer: Because they want $5.5 billion.
I don’t see any real reason for it because the budget does allow us to spend not only $5.5 billion in fiscal 2001, but $7.35 billion for fiscal 2002. So what we are trying to do is what the budget allows us to do right now: get the money out to help our farmers now, because of the drought, get the Conservation program funding out, and get money out to help some of our specialty crop producers around the country. And basically the President is saying, no.

I hope the Senate will persevere. I hope we will be persuaded by President we have to fight for our farmers and our farm families; that we cannot, for no good reason fail to send the help they need. I have not heard one good reason from the White House why we should not put this money out to help save our farm families. I believe we have to, that we must, and I hope we do tomorrow. Madam President, I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the Senator from Alabama, Mr. SESSIONS, be allowed to speak for up to 15 minutes after I speak.

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

TRIBUTE TO KANSAS GOVERNOR JOAN FINNEY

Mr. BROWNBACK. Madam President, I rise today to pay tribute to a Kansan the Presiding Officer knew. She died as a result of complications associated with her fight with liver cancer—a lady who worked for and serving, whether it was as First Lady or for Senator Carlson or whether it was as State treasurer or whether it was as Governor of the State of Kansas.

The Democrat Party, in its annual meeting this year in Topeka, adopted a resolution regarding Governor Finney and stated this about her: “She was truly one of Kansas’ most adored native daughters. And she was.” She was adored by the people.

She felt how people’s view was the correct one, even though she might disagree with it. She would go ahead and proceed forward with that view, whatever it might be. She was, in that sense, a populist in the best sense of the word. It was to represent the people. And the people’s will was paramount in politics.

She had a deep heart. She really cared for the people who she served. And you could see this was not something that was a practiced skill of hers, where she would work, for example, at learning people’s names. It was written in her heart. She knew these people in her heart. She cared for them. While many people would have disagreements on different policy issues, they would never disagree with the heart of Joan Finney because it was one of those pure hearts.

She played the harp for a number of people. She played it professionally. It was a gift that she used frequently when asked. It was something I think that also helped to express just the inside of who this beautiful woman was. She was somebody who really played beautifully and played purely in the game of life.

So as people say their prayers tonight, I hope they remember Joan Finney, as well as her husband Spencer, who is still alive, although mourning, obviously, the death of his spouse. I hope they will remember her. And I can guarantee she would remember them.

I yield the floor.

Mr. ROBERTS. Madam President, on Wednesday, Kansans paid their final respects to Governor Finney, by Rev. Francis Krische, pastor of the Most Pure Heart of Mary Catholic Church, who stated to the mourners something about Governor Finney that probably captures the essence of Governor Finney, a beautiful woman. He said this about her: “She knew how to be with people. This was one of the keys to her success.”

She really did know how to be with people. She had been elected treasurer in the State of Kansas for 4 terms. She was elected as the first female Governor in the State of Kansas from 1991 to 1995. She started out her career in politics serving a Member of this body, Senator Frank Carlson, whose seat I now occupy.

She worked for him for several years doing constituent work, which fit Governor Finney beautifully because she so loved to help people. She was beautiful about working with people. I would be around her at different events, and it was always so amazing to me the depth of her knowledge of the people she would see whom she knew. She knew the family members. She knew something about what was happening in their families. I sometimes thought she knew all of the people of Kansas.

She was truly a beautiful lady. I think the depth of her caring was such a key characteristic of hers. To learn and know about an individual is how much she cared about the people she was working for and serving, whether it was as First Lady or for Senator Carlson or whether it was as State treasurer or whether it was as Governor of the State of Kansas.

Mr. REID. Madam President, I ask unanimous consent that the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session, provided further that if the Committee
on Environment and Public Works does not report the nomination within those 20 days, the Committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

MEASURE READ THE FIRST TIME—H.R. 2505

Mr. REID. Madam President, I understand H.R. 2505 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2505) to amend title 18, United States Code, to prohibit human cloning.

Mr. REID. Madam President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.
Thursday, August 2, 2001

Daily Digest

HIGHLIGHTS

Senate passed VA–HUD and Independent Agencies Appropriations Act.
House Committee ordered reported the Budget Responsibility and Efficiency Act.
The House passed H.R. 2563, Bipartisan Patient Protection Act.

Senate

Chamber Action

Routine Proceedings, pages S8629–S8848

Measures Introduced: Forty-six bills and three resolutions were introduced, as follows: S. 1302–1347, and S. Res. 147–149. Pages S8703–05

Measures Reported:

H.R. 93, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

H.R. 364, to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the “Marjory Williams Scrivens Post Office”.

H.R. 821, to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the “W. Joe Trogdon Post Office Building”.

H.R. 1183, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building”.

H.R. 1753, to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the “M. Caldwell Butler Post Office Building”.

H.R. 2043, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ’Bud’ Hillis Post Office Building”.

H.R. 2133, to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amendments.

S. Res. 138, designating the month of September as “National Prostate Cancer Awareness Month”, with amendments.

S. Res. 143, expressing the sense of the Senate regarding the development of educational programs on veterans’ contributions to the country and the designation of the week of November 11 through November 17, 2001, as “National Veterans Awareness Week”.

S. Res. 145, recognizing the 4,500,000 immigrants helped by the Hebrew Immigrant Aid Society.

S. Res. 146, designating August 4, 2001, as “Louis Armstrong Day”.

S. 271, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

S. 356, to establish a National Commission on the Bicentennial of the Louisiana Purchase, with an amendment in the nature of a substitute.

S. 737, to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the “Joseph E. Dini, Jr. Post Office”.

S. 970, to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the “Horatio King Post Office Building.”

S. 985, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building”.

S. 1026, to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the “Pat King Post Office Building”.

D833
S. 1046, to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amendments.

S. 1144, to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program.

S. 1181, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”.

S. 1198, to reauthorize Franchise Fund Pilot Programs.

S.J. Res. 19, providing for the reappointment of Anne d’Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 20, providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

Measures Passed:

VA–HUD and Independent Agencies Appropriations Act: By 94 yeas to 5 nays (Vote No. 269), Senate passed H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, after taking action on the following amendments proposed thereto:

Pages S8629–76

Adopted:

Nelson (FL.) Amendment No. 1228 (to Amendment No. 1214), to direct the Administrator of the Environmental Protection Agency to report to Congress on the safety of children’s playground equipment.

Pages S8630–33

Mikulski/Bond Amendment No. 1338 (to Amendment No. 1214), to make certain revisions and improvements to the bill.

Pages S8665–66

Mikulski/Bond Amendment No. 1214, in the nature of a substitute.

Pages S8629–66

Rejected:

Kyl Modified Amendment No. 1229 (to Amendment No. 1214), to specify the manner of allocation of funds made available for grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure. (By 58 yeas to 41 nays (Vote No. 266), Senate tabled the amendment.)

Pages S8635–43, S8645–46, S8653–55

Schumer Amendment No. 1231 (to Amendment No. 1214), to make drug elimination grants for low-income housing available for the BuyBack America program. (By 65 yeas to 33 nays (Vote No. 267), Senate tabled the amendment.)

Pages S8643–45, S8647–53, S8655–56

McCain Modified Amendment No. 1226 (to Amendment No. 1214), to reduce by $5,000,000 amounts available for certain projects funded by the Community Development Fund of the Department of Housing and Urban Development and make the amount available for veterans claims adjudication. (By 69 yeas to 30 nays (Vote No. 268), Senate tabled the amendment.)

Pages S8646–47, S8656–65

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate: Senators Mikulski, Leahy, Harkin, Byrd, Kohl, Johnson, Hollings, Inouye, Bond, Burns, Shelby, Craig, Domenici, DeWine, and Stevens.

Page S8676

Election of Senate Sergeant at Arms: Senate agreed to S. Res. 149, providing for the election of Alfonso E. Lenhardt as the Sergeant at Arms and Doorkeeper of the Senate, effective September 4, 2001.

Pages S8844–45

Emergency Agriculture Assistance Act: A unanimous-consent agreement was reached providing that the vote on the cloture motion on S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, occur at 9:30 a.m., on Friday, August 3, 2001, and that all second-degree amendments to the bill be filed prior to 10 a.m.

Page S8845

Authority to Make Appointments: A unanimous-consent agreement was reached providing that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or inter-parliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Page S8847

Permanent Standing Order/Referral of the Nomination of the Assistant Secretary of the Army for Civil Works: A unanimous-consent agreement was reached providing that the order that was submitted to the Senate today, be considered a permanent standing order with respect to the referral of the nomination of the Assistant Secretary of the Army for Civil Works for the 107th Congress.

Pages S8847–48

Nominations Confirmed: Senate confirmed the following nominations:
By unanimous vote of 97 yeas (Vote No. EX. 270), William J. Riley, of Nebraska, to be United States Circuit Judge for the Eighth Circuit.

Pages S8678–80, S8707

By unanimous vote of 98 yeas (Vote No. EX. 271), Sarah V. Hart, of Pennsylvania, to be Director of the National Institute of Justice.

Pages S8680, S8707

By unanimous vote of 98 yeas (Vote No. EX. 272), Robert S. Mueller III, of California, to be Director of the Federal Bureau of Investigation for the term of ten years.

Pages S8680–91, S8707

Nominations Received: Senate received the following nominations:

Terrence L. O'Brien, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit.

M. Christina Armijo, of New Mexico, to be United States District Judge for the District of New Mexico.

Karon O. Bowdre, of Alabama, to be United States District Judge for the Northern District of Alabama.

David L. Bunning, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Karen K. Caldwell, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Claire V. Eagan, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Stephen P. Friot, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Callie V. Granade, of Alabama, to be United States District Judge for the Southern District of Alabama.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Larry R. Hicks, of Nevada, to be United States District Judge for the District of Nevada.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Roscoe Conklin Howard, Jr., of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years.

David Claudio Iglesias, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

Matthew Hansen Mead, of Wyoming, to be United States Attorney for the District of Wyoming for the term of four years.

Michael J. Sullivan, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

Drew Howard Wrigley, of North Dakota, to be United States Attorney for the District of North Dakota for the term of four years.

Colm F. Connolly, of Delaware, to be United States Attorney for the District of Delaware for the term of four years.

Susan W. Brooks, of Indiana, to be United States Attorney for the Southern District of Indiana for the term of four years.

Leura Garrett Canary, of Alabama, to be United States Attorney for the Middle District of Alabama for the term of four years.

Thomas C. Gean, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

Raymond W. Gruender, of Missouri, to be United States Attorney for the Eastern District of Missouri for the term of four years.

Joseph S. Van Bokkelen, of Indiana, to be United States Attorney for the Northern District of Indiana for the term of four years.

Charles W. Larson, Sr., of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years.

Lawrence J. Block, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

4 Air Force nominations in the rank of general.

Executive Communications:

Petitions and Memorials:

Executive Reports of Committees:

Measures Referred:

Messages From the House:

Measures Placed on Calendar:

Measures Read First Time:

Statements on Introduced Bills:

Additional Cosponsors:

Amendments Submitted:

Additional Statements:
Text of H.R. 2299, as Previously Passed: Pages S8835–44

Authority for Committees: Pages S8834–35

Privilege of the Floor: Page S8835

Record Votes: Seven record votes were taken today. (Total—272) Pages S8655, S8656, S8665, S8676, S8679–80, S8680, S8691

Adjournment: Senate met at 9:30 a.m., and adjourned at 8:00 p.m., until 9:30 a.m., on Friday, August 3, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S8706.)

Committee Meetings

(Committees not listed did not meet)

FEDERAL FARM BILL

Committee on Agriculture, Nutrition, and Forestry: Committee continued hearings on the conservation provisions of the proposed Federal farm bill, focusing on rural economic issues, receiving testimony from David Kolsrud, CORN-er Stone Farmers Cooperative, Luverne, Minnesota; on behalf of the National Cooperative Business Association; Ronald L. Phillips, Coastal Enterprises, Inc., Wiscasset, Maine; Chuck Hassebrook, Center for Rural Affairs, Walthill, Nebraska; Karen Dearlove, Indiana 15 Regional Planning Commission and Indiana Association of Regional Councils, Jasper, Indiana, on behalf of the National Association of Development Organizations; Curtis Wynn, Roanoke Electric Cooperative, Rich Square, North Carolina; Deborah M. Markley, Rural Policy Research Institute, Chapel Hill, North Carolina; Steve Lane, Security Savings Bank, Gowrie, Iowa, on behalf of the Iowa Independent Bankers Association and the Independent Community Bankers of America; and Jack Cassidy, CoBank, Greenwoodville, Colorado.

Hearings recessed subject to call.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably the nominations of John P. Stenbit, of Virginia, to be Assistant Secretary for Command, Control, Communication and Intelligence, and Ronald M. Sega, of Colorado, to be Director of Defense Research and Engineering, both of the Department of Defense, Michael L. Dominguez, of Virginia, to be Assistant Secretary for Manpower and Reserve Affairs, and Nelson F. Gibbs, of California, to be Assistant Secretary for Installations and Environment, both of the Department of the Air Force, Michael Parker, of Mississippi, to be Assistant Secretary for Civil Works, and Mario P. Fiori, of Georgia, to be Assistant Secretary for Installations and Environment, both of the Department of the Army, and H.T. Johnson, of Virginia, to be Assistant Secretary of the Navy for Installations and Environment, Gen. John P. Jumper, USAF, for reappointment to the grade of general and to be Chief of Staff, United States Air Force, and 1147 military nominations in the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION—DEFENSE INSTALLATIONS/CONSTRUCTION/HOUSING


DEPOSIT INSURANCE REFORM

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Financial Institutions concluded hearings to examine financial institution recommendations to strengthen and improve the Federal Deposit Insurance Corporation’s deposit insurance fund system, focusing on preserving the value of FDIC protection and coverage for the future, establishing a pricing structure, smoothing out premiums to avoid wild swings caused by the hard target reserve ratio, and providing appropriate rebates of excess fund reserves, after receiving testimony from Robert I. Gulledge, Citizens Bank, Robertsdale, Alabama, on behalf of the Independent Community Bankers of America; Jeff L. Plagge, First National Bank of Waverly, Iowa, on behalf of the American Bankers Association; and Curtis L. Hage, Home Federal Bank, Sioux Falls, South Dakota, on behalf of the America’s Community Bankers.

SOCIAL SECURITY REFORM

Committee on the Budget: Committee concluded hearings to examine Social Security reform issues, focusing on budgetary tradeoffs and transition costs, after receiving testimony from Peter R. Orszag, Sebago
BUSINESS MEETING
Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following business items:

S. 633, to provide for the review and management of airport congestion, with an amendment in the nature of a substitute;

S. 951, to authorize appropriations for the Coast Guard, with an amendment in the nature of a substitute;

S. 980, to provide for the improvement of the safety of child restraints in passenger motor vehicles, with an amendment in the nature of a substitute;

S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports; and

The nominations of John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board, Jeffrey William Runge, of North Carolina, to be Administrator, National Highway Traffic Safety Administration, and Kirk Van Tine, of Virginia, to be General Counsel, both of the Department of Transportation, and Nancy Victory, of Virginia, to be Assistant Secretary for Communications and Information, and Otto Wolff, of Virginia, to be an Assistant Secretary and Chief Financial Officer, both of the Department of Commerce.

Also, committee failed to report the nomination of Mary Sheila Gall, of Virginia, to be Chairman of the Consumer Product Safety Commission.

CAFÉ STANDARDS

BUSINESS MEETING
Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in Paterson, New Jersey, as a unit of the National Park System;

H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eight Mile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System;

H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, and to authorize an exchange of land in connection with the historic site;

H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy;

S. 423, to amend the Act entitled “An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon”, with amendments;

S. 941, to revise the boundaries of the Golden Gate National Recreation Area in the State of California, and to extend the term of the advisory commission for the recreation area, with amendments;

S. 1057, to authorize the addition of lands to Pu‘uhonua o Honaunau National Historical Park in the State of Hawaii;

S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park;

S. 1105, to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, with amendments; and

The nomination of Theresa Alvillar-Speake, of California, to be Director of the Office of Minority Economic Impact, Department of Energy.

Also, committee continued markup of S. 597, to provide for a comprehensive and balanced national energy policy, but did not complete action thereon, and recessed subject to call.

BUSINESS MEETING
Committee on Governmental Affairs: Committee ordered favorably reported the following business items:

S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at
a level that would prevent dangerous anthropogenic interference with the climate system, while mini-
mizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technologi-
ical breakthroughs that make significant progress toward the goal of stabilization of green-
house gas concentrations, to establish the National Office of Climate Change Response within the Exec-
utive Office of the President, with amendments;
S. 1202, to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006;
S. 1198, to reauthorize Franchise Fund Pilot Pro-
grams;
S. 1144, to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program;
S. 271, to amend title 5, United States Code, to provide that the mandatory separation age for Fed-
eral firefighters be made the same as the age that ap-
plies with respect to Federal law enforcement offi-
cers;
H.R. 93, to amend title 5, United States Code, to provide that the mandatory separation age for Fed-
eral firefighters be made the same as the age that ap-
plies with respect to Federal law enforcement offi-
cers;
H.R. 1042, to prevent the elimination of certain reports;
S. 737, to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the “Joseph E. Dini, Jr. Post Office”;
S. 970, to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the “Horatio King Post Office Building”;
S. 985, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building”;
H.R. 1183, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building”;
S. 1026, to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the “Pat King Post Office Building”;
S. 1181, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”;
H.R. 2043, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”;
H.R. 364, to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the “Marjory Williams Scrivens Post Office”;
H.R. 821, to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the “W. Joe Trogdon Post Office Building”;
H.R. 1753, to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the “M. Caldwell Butler Post Office Building”;
The nominations of Lynn Leibovitz, of the District of Columbia, to be an Associate Judge of the Supe-
rior Court of the District of Columbia, and Daniel R. Levinson, of Maryland, to be Inspector General, General Services Administration.

NOMINATION
Committee on Health, Education, Labor, and Pensions: Committee concluded hearings on the nomination of John Lester Henshaw, of Missouri, to be Assistant Secretary of Labor for Occupational Safety and Health, after the nominee testified and answered questions in his own behalf.

BUSINESS MEETING
Committee on the Judiciary: Committee ordered favorably reported the following business items:
S. 356, to establish a National Commission on the Bicentennial of the Louisiana Purchase, with an amendment in the nature of a substitute;
S. 1046, to establish a Commission to commemo-
rate the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amend-
ments;
H.R. 2133, to establish a Commission to com-
memorate the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amend-
ments;
S. Res. 143, expressing the sense of the Senate re-
garding the development of educational programs on veterans’ contributions to the country and the desig-
nation of the week of November 11 through No-
vember 17, 2001, as “National Veterans Awareness Week”;
S. Res. 145, recognizing the 4,500,000 immi-
grats helped by the Hebrew Immigrant Aid Soci-
ety;
S. Res. 138, designating the month of September as "National Prostate Cancer Awareness Month", with amendments;

S. Res. 146, designating August 4, 2001, as "Louis Armstrong Day"; and

The nominations of William J. Riley, of Nebraska, to be United States Circuit Judge for the Eighth Circuit, and Sarah V. Hart, of Pennsylvania, to be Director of the National Institute of Justice, and Robert S. Mueller III, of California, to be Director of the Federal Bureau of Investigation, both of the Department of Justice.

BUSINESS MEETING

Committee on Rules and Administration: Committee ordered favorably reported the following bills:

S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections;

S.J. Res. 19, providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 20, providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported the following business items:

S. 739, to amend title 38, United States Code, to improve programs for homeless veterans, with an amendment in the nature of a substitute;

S. 1088, to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, with an amendment in the nature of a substitute;

S. 1090, to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans;

S. 1188, to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, with an amendment in the nature of a substitute; and

The nominations of John A. Gauss, of Virginia, to be Assistant Secretary of Veterans Affairs for Information and Technology, and Claude M. Kicklighter, of Georgia, to be Assistant Secretary of Veterans Affairs for Policy and Planning.

Prior to this action, committee concluded hearings on the nominations of Messrs. Gauss and Kicklighter (listed above), after the nominees testified and answered questions in their own behalf. Mr. Kicklighter was introduced by Senators Thurmond and Akaka.

House of Representatives

Chamber Action


Reports Filed: Reports were filed as follows:

H.R. 2175, to protect infants who are born alive (H. Rept. 107–186);

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors (H. Rept. 107–187);

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States (H. Rept. 107–188);

H.R. 2048, to require a report on the operations of the State Justice Institute (H. Rept. 107–189);

H.R. 2047, to authorize appropriations for the United States Patent and Trademark Office for fiscal year 2002, amended (H. Rept. 107–190);

H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011, amended (H. Rept. 107–191, Pt. 1); and

H.R. 1408, to safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, amended (H. Rept. 107–192, Pt. 1).
Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Fossella to act as Speaker pro tempore for today.  Page H5179

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. George G. McDearmon, Ballston Lake Baptist Church of Ballston Lake, New York. Page H5179

Journal: Agreed to the Speaker’s approval of the Journal of August 1 by a recorded vote of 331 ayes to 76 noes with 1 voting “present,” Roll No. 321. Pages H5179, H5180

Motions to Adjourn: Rejected the McNulty motions to adjourn by a recorded vote of 55 ayes to 363 noes, Roll No. 322, yea-and-nay vote of 56 yeas to 355 nays, Roll No. 323, and a recorded vote of 55 ayes to 356 noes, Roll No. 327. Pages H5180–81, H5184–85, H5196

Recess: The House recessed at 11:17 p.m. and reconvened at 12 noon. Page H5184


Rejected the Berry motion to recommit the bill to the Committee on Ways and Means, Committee on Energy and Commerce, and the Committee on Education and the Workforce with instructions to report it back to the House forthwith with an amendment in the nature of a substitute by a recorded vote of 208 ayes to 220 noes, Roll No. 331. Pages H5285–H5314

Agreed To:
Thomas amendment No. 1 printed in H. Rept. 107–184 that adds Association Health Plans to the Employee Retirement Income Security Act (ERISA) and removes restrictions on Medical Savings Accounts (MSAs) (agreed to by a recorded vote of 236 ayes to 194 noes, Roll No. 328); and Pages H5247–62
Norwood amendment No. 2 printed in H. Rept. 107–184 that guarantees patients Federal remedies to hold health plans accountable for wrongful denial or delay of medical care and caps non-economic damages at $1.5 million and punitive damages at $1.5 million (agreed to by a recorded vote of 218 ayes to 213 noes, Roll No. 329). Pages H5262–76

Rejected:
Thomas amendment No. 3 printed in H. Rept. 107–184 that sought to reform medical malpractice laws (rejected by a recorded vote of 207 ayes to 221 noes, Roll No. 330). Pages H5276–85

The Clerk was authorized to make corrections and conforming changes in the engrossment of the bill. Page H5315

Agreed to H. Res. 219, the rule that provided for consideration of the bill by a recorded vote of 222 ayes to 205 noes, Roll No. 326. Earlier, agreed to order the previous question by a recorded vote of 222 ayes to 205 noes, Roll No. 325. Pages H5185–96

Late Report—Committee on Armed Services: The Committee on Armed Services received permission to have until midnight on Tuesday, Sept. 4, to file a report on H.R. 2586, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002. Pages H5315–16

Late Report—Committee on Agriculture: The Committee on Agriculture received permission to have until 5 p.m. on Tuesday, Sept. 4, to file a supplemental report on H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011. Page H5316

August District Work Period: The House agreed to H. Con. Res. 208, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate. Page H5316

Possible Pro Forma Sessions of the House During the August District Work Period: Agreed that when the House adjourns today, it shall adjourn to meet at noon on Monday, August 6, and that when the House adjourns on Monday, August 6, it shall adjourn to meet at noon on Tuesday, August 7; and when the House adjourns on Tuesday, August 7, and on each of its successive days of meeting under this order it shall stand adjourned until noon on each third successive day until it shall convene at 2 p.m. on Wednesday, September 5, 2001; unless the House sooner receives a message from the Senate transmitting its adoption of a concurrent resolution providing for the summer district work period, in which case the House, following its adoption thereof, shall stand adjourned pursuant to that concurrent resolution. Page H5316

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Sept. 5, 2001. Page H5316

Consideration of Suspensions on Wednesday, Sept. 5: Agreed that it be in order at any time on Wednesday, Sept. 5 for the Speaker to entertain motions to suspend the rules. Page H5316

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Wednesday, Sept. 5, 2001 the Speaker, Majority Leader, and Minority Leader be authorized to accept
resignations and to make appointments authorized by law or by the House.  

Cleaning the Mace: The House agreed to H. Res. 223, authorizing the cleaning and repair of the mace of the House of Representatives by the Smithsonian Institution.  

Page H5316

Neighborhood Crime Prevention: The House agreed to H. Res. 193, requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority.  

Pages H5316–17

Mourning the Death of Ron Sander in Ecuador: The House agreed to H. Con. Res. 89, mourning the death of Ron Sander at the hands of terrorist kidnappers in Ecuador and welcoming the release from captivity of Arnie Alford, Steve Derry, Jason Weber, and David Bradley, and supporting efforts by the United States to combat such terrorism.  

Pages H5317–19


Pages H5319–21


Pages H5321–23

National Health Center Week: The House agreed to H. Con. Res. 179, expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.  

Page H5323

10th Anniversary of the Re-establishment of Ukraine Independence: The House agreed to H. Res. 222, congratulating Ukraine on the tenth anniversary of re-establishment of its independence.  

Pages H5323–24

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf or, if he is not available, Representative Gilchrest to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 5.  

Page H5324

Senate Messages: Message received from the Senate today appears on page H5179.  

Referral: S. 494 was referred to the Committees on Financial Services and International Relations.  

Page H5330


Adjournment: The House met at 10 a.m. and, at midnight, pursuant to the previous order of the House of Thursday, August 2, the House stands adjourned until noon on Monday, August 6, 2001, unless it sooner has received a message from the Senate transmitting its concurrence in H. Con. Res. 208, in which case the House shall stand adjourned pursuant to that concurrent resolution for the August District Work Period and will reconvene on Wednesday, September 5 at 2 p.m.  

Committee Meetings

AIRLINE DELAYS AND AVIATION SYSTEM CAPACITY

Committee on Appropriations: Subcommittee on Transportation on Airline Delays and Aviation System Capacity. Testimony was heard from the following officials of the Department of Transportation: Jane F. Garvey, Administrator, FAA; and Kenneth M. Mead, Inspector General; and public witnesses.  

BUDGET RESPONSIBILITY AND EFFICIENCY ACT


RETIREMENT SECURITY ADVICE ACT


CHILD ABUSE AND NEGLECT PREVENTION

Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on “CAPTA: Successes and Failures at Preventing Child Abuse and Neglect.” Testimony was heard from Wade Horn, Assistant Secretary, Children and Families, Department of Health and Human Services; and public witnesses.  

SEC’S BROKER-DEALER RULES

Testimony was heard from Laura S. Under, Acting Chairwoman, SEC; Laurence H. Meyer, member, Board of Governors, Federal Reserve System; William F. Kroener, General Counsel, FDIC; Ellen Broadman, Director, Securities and Corporate Practices, Office of the Comptroller of the Currency, Department of the Treasury; and public witnesses.

REGULATORS IN DEREGULATED ELECTRICITY MARKETS

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing on FERC: Regulators in Deregulated Electricity Markets. Testimony was heard from the following officials of the Federal Energy Regulatory Commission, Department of Energy: Kevin Madden, General Counsel; and Shelton Cannon, Deputy Director, Office of Markets, Tariffs and Rates; James E. Wells, Jr., Director, Natural Resources and Environment, GAO; and public witnesses.

F–22 COST CONTROLS

Committee on Government Reform: Subcommittee on National Security, Veterans’ Affairs, and International Relations held a hearing on F–22 Cost Controls: How Realistic are Production Cost Reduction Plan Estimates? Testimony was heard from the following officials of the National Security and International Affairs Division, GAO: Allen Li, Associate Director; and Donald Springman, Senior Analyst; and the following officials of the Department of Defense: Darleen A. Druyun, Principal Deputy Assistant Secretary, Air Force, Acquisition and Management, and George Schneiter, Director, Strategic and Tactical Systems, both with the Department of the Air Force; and Francis P. Summers, Regional Director, Defense Contract Audit Agency.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe approved for full Committee action the following measures: H. Res. 200, amended, relating to the transfer of Slobodan Milosevic, and other alleged war criminals, to the International Criminal Tribunal for Yugoslavia; H. Con. Res. 131, congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence; and H. Con. Res. 58, amended, urging the President of Ukraine to support democratic ideals, the rights of free speech, and free assembly for Ukrainian citizens.

INTERNET TAX NONDISCRIMINATION ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law approved for full Committee action H.R. 1552, Internet Tax Nondiscrimination Act.

TWO STRIKES AND YOU’RE OUT CHILD PROTECTION ACT; LAW ENFORCEMENT TRIBUTE ACT

Committee on the Judiciary: Subcommittee on Crime approved for full Committee action the following bills: H.R. 2146, amended, Two Strikes and You’re Out Child Protection Act; and H.R. 2624, Law Enforcement Tribute Act.

OVERSIGHT—U.S. POPULATION AND IMMIGRATION

Committee on the Judiciary: Subcommittee on Immigration and Claims held an oversight hearing on the U.S. Population and Immigration. Testimony was heard from John F. Long, Chief, Population Division, Bureau of the Census, Department of Commerce; and public witnesses.

FISHERIES CONSERVATION ACT; ATLANTIC HIGHLY MIGRATORY SPECIES CONSERVATION ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans approved for full Committee action, as amended, H.R. 1367, Atlantic Highly Migratory Species Conservation Act of 2001. The Subcommittee also held a hearing on H.R. 1367, Atlantic Highly Migratory Species Conservation Act of 2001. Testimony was heard from the following officials of the National Marine Fisheries Service, NOAA, Department of Commerce: William T. Hogarth, Acting Assistant Administrator, Fisheries; and Gerry Scott, Director, Sustainable Fisheries Division; and public witnesses.

BRIEFING—THE TERRORIST THREAT

Permanent Select Committee on Intelligence: Working Group on Terrorism and Homeland Security met in executive session to receive a briefing on “CBRN 101,” The Terrorist Threat. The Committee was briefed by departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, AUGUST 3, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: Subcommittee on International Trade, to hold hearings on the Andean Trade Preferences Act, 10 a.m., SD—215.

Committee on Foreign Relations: to hold hearings on the nomination of J. Richard Blankenship, of Florida, to be Ambassador to the Commonwealth of The Bahamas; the nomination of Hans H. Hertell, of Puerto Rico, to be
Ambassador to the Dominican Republic; and the nomination of Martin J. Silverstein, of Pennsylvania, to be Ambassador to the Oriental Republic of Uruguay, 9:45 a.m., SD–419.

House

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, hearing on the reauthorization of the Price-Anderson Act, 9:30 a.m., 2322 Rayburn.


Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment situation for July, 2001, 9:30 a.m., 1334 Longworth Building.
Next Meeting of the SENATE
9:30 a.m., Friday, August 3

Senate Chamber

Program for Friday: Senate will resume consideration of S. 1246, Emergency Agriculture Assistance Act, with a vote on the motion to close further debate on the bill.

Next Meeting of the HOUSE OF REPRESENTATIVES
12 noon, Monday, August 6

House Chamber

Program for Monday: Pro forma session.