(Mr. DAYTON) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Virginia (Mr. WARNER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

S. 1162

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1170

At the request of Mr. WYDEN, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1170, a bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1182

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1182, supra.

S. 1184

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1184, a bill to establish a National Foundation for the Study of Holocaust Assets.

S. RES. 153

At the request of Mrs. MURRAY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 159

At the request of Mr. PRYOR, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 159, a resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

AMENDMENT NO. 853

At the request of Mr. SCHUMER, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 853 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1190. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN: Mr. President, I rise today with my colleague from Texas, Senator KAY BAILEY HUTCHISON, to introduce the Next Generation Hispanic-Serving Institution Act. This bill will strengthen provisions in Title V of the Higher Education Act, HEA, by providing our Hispanic-Serving Institutions with both graduate opportunities and reductions in regulatory barriers.

According to the 2000 census Hispanics make up 12.5 percent of the American population. Currently Hispanics constitute 10 percent of the college enrollment. By 2050 the Hispanic population will grow to 25 percent. It is in our national interest to ensure that this population is well educated so that they will be ready to take their place as professionals, scientists, inventors, and well-informed citizens.

Hispanic-Serving Institutions, HSIs, serve students of all backgrounds and ethnicities in 13 States. Colleges and universities become eligible for HSI status if at least 50 percent of their student population receives need-based financial assistance, 25 percent is Hispanic, and 50 percent of their Hispanic population is low-income. It is at these HSIs that the largest growth in advanced degrees awarded to Hispanics is occurring. Between 1991 and 2000 the number of Hispanic students earning master's degrees at HSIs grew 136 percent and the number of receiving doctoral degrees grew by 85 percent. Currently over 25 percent of the Hispanics who obtained these degrees did so at HSIs. As a nation, we need to expand the capacity of Hispanic-Serving Institutions, support their undergraduate programs, and encourage them to offer quality graduate and professional degree programs.

The Next Generation Hispanic-Serving Institution Act will strengthen our Hispanic-Serving Institutions by: Establishing a competitive grant program for HSIs to support their masters and doctoral degree programs. Eliminating the current requirement for HSIs to show that 50 percent of their Hispanic population is low-income. This requirement is difficult for the institutions to meet because they cannot collect the necessary student data. Eliminating the 2-year wait-out period between HSI grants allowing continuous funding of existing programs. Adding, as an authorized activity, programs that support student transfers from 2-year to 4-year institutions. Raising the funding for the Title V HSI grant program to $175,000,000. Allocating $125,000,000 for a new grant program to support HSI masters and doctoral programs.

The State of New Mexico houses 19 HSIs within its border. The New Mexico HSIs serve the entire State and their student populations are very diverse. Over the years these 19 institutions have worked diligently to educate and support all students. They have graduated outstanding teachers, scientists, and other professionals. The Next Generation Hispanic-Serving Institution Act supports the valuable work that these and all other HSIs are currently doing and gives them new resources they need to expand their offerings.

I urge my colleagues to support this bill and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1190

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 ''Next Generation Hispanic Serving Institutions Act''.

TITLE I—GRADUATE OPPORTUNITIES AT HISPANIC-SERVING INSTITUTIONS

SEC. 101. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.

(a) ESTABLISHMENT OF PROGRAM.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

"PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

"SEC. 511. FINDINGS AND PURPOSES.

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

''(1) According to the United States Census, by the year 2050, 1 in 4 Americans will be of Hispanic origin.

''(2) Despite the dramatic increase in the Hispanic population in the United States, the National Center for Education Statistics reported that in 1999, Hispanics accounted for only 4 percent of the master's degrees, 3 percent of the doctor's degrees, and 5 percent of first-professional degrees awarded in the United States.

''(3) Although Hispanics constitute 10 percent of the college enrollment in the United States, they comprise only 3 percent of instructional faculty in college and universities.

''(4) The future capacity for research and advanced study in the United States will require increasing the number of Hispanics pursuing postbaccalaureate studies.

''(5) Hispanic-serving institutions are leading the Nation in increasing the number of Hispanics attaining graduate and professional degrees.

''(6) Among Hispanics who received master's degrees in 1999–2000, 25 percent earned them at Hispanic-serving institutions.

''(7) Between 1991 and 2000, the number of Hispanic students earning master's degrees at Hispanic-serving institutions grew 136 percent, the number receiving doctor's degrees grew by 85 percent, and the number earning first-professional degrees grew by 47 percent.

''(8) It is in the National interest to expand the capacity of Hispanic-serving institutions to offer graduate and professional degree programs.

''(9) Research is a key element in graduate education and undergraduate preparation, particularly in science and technology, and Congress desires to strengthen the role of research at Hispanic serving-institutions. University research, whether performed directly or through a university's nonprofit research institute or foundation, is considered an integral part of the institution and mission of the university.

''(b) PURPOSES.—The purposes of this part are—

''(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

''(2) to expand and enhance the postbaccalaureate academic offerings of high quality that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and low-income individuals complete postsecondary degrees.

"SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.

''(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award competitive grants to eligible institutions.

''(b) ELIGIBILITY.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

''(1) is a Hispanic-serving institution (as defined under section 502); and

''(2) offers a postbaccalaureate certificate or degree granting program.

"SEC. 513. AUTHORIZED ACTIVITIES.

''Grants awarded under this part shall be used for 1 or more of the following activities:

''(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

''(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

''(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

''(4) Support for needy postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

''(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

''(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

''(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

''(8) Other activities proposed in the application submitted pursuant to section 514 that—

''(A) contribute to carrying out the purposes of this part; and

''(B) are approved by the Secretary as part of the review and acceptance of such application.

"SEC. 514. APPLICATION AND DURATION.

''(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as determined by the Secretary. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students' greater financial independence.

''(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

''(c) LIMITATION.—The Secretary shall not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.''.

(b) COOPERATIVE ARRANGEMENTS.—Section 524 of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended by inserting ''and section 513'' after ''section 503''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 528(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended to read as follows:

''(a) AUTHORIZATIONS.—

''(1) PART A.—There are authorized to be appropriated to carry out part A of this title $175,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(2) PART B.—There are authorized to be appropriated to carry out part B of this title $125,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

(d) CONFORMING AMENDMENTS.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) in section 502—

(A) in subsection (a)(2)(A)(ii), by striking ''section 512(b)'' and inserting ''section 522(b)''; and

(B) in subsection (b)(2), by striking ''section 512(a)'' and inserting ''section 522(a)'';

(2) in section 521(c)(6) (as redesignated by subsection (a)(2)), by striking ''section 516'' and inserting ''section 526''; and

(3) in section 526 (as redesignated by subsection (a)(2)), by striking ''section 518'' and inserting ''section 528''.

TITLE II—REDUCING REGULATORY BARRIERS FOR HISPANIC-SERVING INSTITUTIONS

SEC. 201. DEFINITIONS.

Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

SEC. 202. AUTHORIZED ACTIVITIES.

Section 503(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1101b(b)(7)) is amended to read as follows:

''(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.''.

SEC. 203. ELIMINATION OF WAIT-OUT PERIOD.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended to read as follows:

''(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.''.

SEC. 204. APPLICATION PRIORITY.

Section 521(d) of the Higher Education Act of 1965 (as redesignated by section 101(a)(2)) is amended by striking ''(from funds other than funds provided under this title)''.

By Mr. LEAHY:

S. 1191. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in June 1999, the United States Supreme Court issued a pair of decisions that altered the legal landscape with respect to intellectual property. I am referring to Florida Prepaid v. College Savings Bank and its companion case, College Savings Bank v. Florida Prepaid. The Court ruled in these cases that States and their institutions cannot be held liable for damages for patent infringement and other violations of the Federal intellectual property laws, even though they can and do enjoy the full protection of those laws for themselves.

Both Florida Prepaid and College Savings Bank were decided by the same five-to-four majority of the justices. This slim majority of the Court threw out three Federal statutes that Congress passed, unanimously, in the early 1990s, to reaffirm that the Federal patent, copyright, and trademark laws apply to everyone, including the States.

I believe that there is an urgent need for Congress to respond to the Florida Prepaid decisions, for two reasons.

First, the decisions opened up a huge loophole in our Federal intellectual property laws. If we truly believe in fairness, we cannot tolerate a situation in which some participants in the intellectual property system get legal

protection but need not adhere to the law themselves. If we truly believe in the free market, we cannot tolerate a situation where one class of market participants have to play by the rules and others do not. As Senator SPECTER said in August 1999, in a floor statement that was highly critical of the Florida Prepaid decisions, they ''leave us with an absurd and untenable state of affairs,'' where ''States will enjoy an enormous advantage over their private sector competitors.''

The second reason why Congress should respond to the Florida Prepaid decisions is that they raise broader concerns about the roles of Congress and the Court. Over the past decade, in a series of five-to-four decisions that might be called examples of ''judicial activism,'' the current Supreme Court majority has overturned Federal legislation with a frequency unprecedented in American constitutional history. In doing so, the Court has more often than not relied on notions of State sovereign immunity that have little if anything to do with the text of the Constitution.

Some of us have liked some of the results; others have liked others; but that is not the point. This activist Court has been whittling away at the legitimate constitutional authority of the federal government. At the risk of sounding alarmist, this is the fact of the matter: We are faced with a choice. We can respond—in a careful and measured way—by reinstating our democratic policy choices in legislation that is crafted to meet the Court's stated objections. Or we can run away, abdicate our democratic policy-making duties to the unelected Court, and go down in history as the incredible shrinking Congress.

About four months after the Florida Prepaid decisions issued, I introduced a bill that responded to those decisions. The Intellectual Property Protection Restoration Act of 1999 was designed to restore Federal remedies for violations of intellectual property rights by states. I have continued to refine this legislation over the years, and in February 2002, as Chairman of the Judiciary Committee, I held the Committee's first hearing on the issue of sovereign immunity and the protection of intellectual property.

Today, I am pleased to be introducing the Intellectual Property Protection Restoration Act of 2003, which builds on my earlier proposals and on the helpful comments I have received on those proposals from legal experts across the country. I am proud to have the House leaders on intellectual property issues, Representatives Smith and Berman, as the principal sponsors of the House companion bill.

This bill has the same common-sense goal as the three statutes that the Supreme Court's decisions invalidated: To protect intellectual property rights fully and fairly. But the legislation has been re-engineered, after extensive consultation with constitutional and intellectual property experts, to ensure full compliance with the Court's new jurisprudential requirements. As a result, the bill has earned the strong support of the U.S. Copyright Office and the endorsements of a broad range of organizations including the American Bar Association, the American Intellectual Property Law Association, the Business Software Alliance, the Intellectual Property Owners Association, the International Trademark Association, the Motion Picture Association of America, the Professional Photographers of America Association, and the Chamber of Commerce.

In essence, our bill presents States with a choice. It creates reasonable incentives for States to waive their immunity in intellectual property cases, but it does not oblige them to do so. States that choose not to waive their immunity within two years after enactment of the bill would continue to enjoy many of the benefits of the Federal intellectual property system; however, like private parties that sue States for infringement, States that sue private parties for infringement could not recover any money damages unless they had waived their immunity from liability in intellectual property cases.

This arrangement is clearly constitutional. Congress may attach conditions to a State's receipt of Federal intellectual property protection under its Article I intellectual property power just as Congress may attach conditions on a State's receipt of federal funds under its Article I spending power. Either way, the power to attach conditions to the federal benefit is part of the greater power to deny the benefit altogether. And no condition could be more reasonable or proportionate than the condition that in order to obtain full protection for your federal intellectual property rights, you must respect those of others.

I am encouraged by the Supreme Court's recent decision in Nevada Department of Human Resources v. Hibbs, which, although very narrow, suggests that certain Justices may be starting to realize that the Court has gone too far in sacrificing ordinary people's rights at the altar of sovereign immunity. By upholding the Family and Medical Leave Act as applied to the States, the Hibbs case also suggests that a very carefully crafted law, which simply does what is necessary to protect important rights, will be upheld.

I hope we can all agree on the need to protect the rights of intellectual property owners. A recent GAO study confirmed that, as the law now stands, owners of intellectual property have few or no alternatives or remedies available against State infringers—just a series of dead ends.

We need to assure American inventors and investors, and our foreign trading partners, that as State involvement in intellectual property becomes ever greater in the new information economy, U.S. intellectual property rights are backed by legal remedies. I want to emphasize the international ramifications here. American trading interests have been well served by our strong and consistent advocacy of effective intellectual property protections in treaty negotiations and other international fora. Those efforts could be jeopardized by the loophole in U.S. intellectual property enforcement that the Supreme Court has created.

Senator BROWNBACK made this point at a Judiciary Committee hearing on February 27, 2002. He said, ''When states assert sovereign immunity for the purpose of infringing upon intellectual property rights, it damages the credibility of the United States internationally, and could possibly even lead to violations of our treaty obligations. Any decrease in the level of enforcement of intellectual property rights around the world is likely to harm American businesses, because of our position as international leaders in industries like pharmaceuticals, information technology, and biotechnology.''

The Intellectual Property Protection Restoration Act restores protection for violations of intellectual property rights that may, under current law, go unremedied. We unanimously passed more sweeping legislation in the early 1990s, but were thwarted by the Supreme Court's shifting jurisprudence. We should enact this legislation without further delay.

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. 1191

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Intellectual Property Protection Restoration Act of 2003''.

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) help eliminate the unfair commercial advantage that States and their instrumentalities now hold in the Federal intellectual property system because of their ability to obtain protection under the United States patent, copyright, and trademark laws while remaining exempt from liability for infringing the rights of others;

(2) promote technological innovation and artistic creation in furtherance of the policies underlying Federal laws and international treaties relating to intellectual property;

(3) reaffirm the availability of prospective relief against State officials who are violating or who threaten to violate Federal intellectual property laws; and

(4) abrogate State sovereign immunity in cases where States or their instrumentalities, officers, or employees violate the

United States Constitution by infringing Federal intellectual property.

SEC. 3. INTELLECTUAL PROPERTY REMEDIES EQUALIZATION.

(a) AMENDMENT TO PATENT LAW.—Section 287 of title 35, United States Code, is amended by adding at the end the following:

''(d)(1) No remedies under section 284 or 289 shall be awarded in any civil action brought under this title for infringement of a patent issued on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such patent, except upon proof that—

''(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to a patent if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the patent, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the patent.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(b) AMENDMENT TO COPYRIGHT LAW.—Section 504 of title 17, United States Code, is amended by adding at the end the following:

''(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

''(1) No remedies under this section shall be awarded in any civil action brought under this title for infringement of an exclusive right in a work created on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

''(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to an exclusive right if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the exclusive right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(c) AMENDMENT TO TRADEMARK LAW.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

''(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

''(1) No remedies under this section shall be awarded in any civil action arising under this Act for a violation of any right of the registrant of a mark registered in the Patent and Trademark Office on or after January 1, 2004, or any right of the owner of a mark first used in commerce on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

''(A) on or before the date the violation commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to a right of the registrant or owner of a mark if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO PATENT LAW.—Section 296 of title 35, United States Code, and the item relating to section 296 in the table of sections for chapter 29 of such title, are repealed.

(2) AMENDMENTS TO COPYRIGHT LAW.—Section 511 of title 17, United States Code, and the item relating to section 511 in the table of sections for chapter 5 of such title, are repealed.

(3) AMENDMENTS TO TRADEMARK LAW.—Section 40 of the Trademark Act of 1946 (15 U.S.C. 1122) is amended—

(A) by striking subsection (b);

(B) in subsection (c), by striking ''or (b)'' after ''subsection (a)''; and

(C) by redesignating subsection (c) as subsection (b).

SEC. 4. CLARIFICATION OF REMEDIES AVAILABLE FOR STATUTORY VIOLATIONS BY STATE OFFICERS AND EMPLOYEES.

In any action against an officer or employee of a State or State instrumentality for any violation of any of the provisions of title 17 or 35, United States Code, the Trademark Act of 1946, or the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), remedies shall be available against the officer or employee in the same manner and to the same extent as such remedies are available in an action against a private individual under like circumstances. Such remedies may include monetary damages assessed against the officer or employee, declaratory and injunctive relief, costs, attorney fees, and destruction of infringing articles, as provided under the applicable Federal statute.

SEC. 5. LIABILITY OF STATES FOR CONSTITUTIONAL VIOLATIONS INVOLVING INTELLECTUAL PROPERTY.

(a) DUE PROCESS VIOLATIONS.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that deprives any person of property in violation of the fourteenth amendment of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(b) TAKINGS VIOLATIONS.—

(1) IN GENERAL.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that takes property in violation of the fifth and fourteenth amendments of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(2) EFFECT ON OTHER RELIEF.—Nothing in this subsection shall prevent or affect the ability of a party to obtain declaratory or injunctive relief under section 4 of this Act or otherwise.

(c) COMPENSATION.—Compensation under subsection (a) or (b)—

(1) may include actual damages, profits, statutory damages, interest, costs, expert witness fees, and attorney fees, as set forth in the appropriate provisions of title 17 or 35, United States Code, the Trademark Act of 1946, and the Plant Variety Protection Act; and

(2) may not include an award of treble or enhanced damages under section 284 of title 35, United States Code, section 504(d) of title 17, United States Code, section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117 (b)), or section 124(b) of the Plant Variety Protection Act (7 U.S.C. 2564(b)).

(d) BURDEN OF PROOF.—In any action under subsection (a) or (b)—

(1) with respect to any matter that would have to be proved if the action were an action for infringement brought under the applicable Federal statute, the burden of proof shall be the same as if the action were brought under such statute; and

(2) with respect to all other matters, including whether the State provides an adequate remedy for any deprivation of property proved by the injured party under subsection (a), the burden of proof shall be upon the State or State instrumentality.

(e) EFFECTIVE DATE.—This section shall apply to violations that occur on or after the date of enactment of this Act.

SEC. 6. RULES OF CONSTRUCTION.

(a) JURISDICTION.—The district courts shall have original jurisdiction of any action arising under this Act under section 1338 of title 28, United States Code.

(b) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of intellectual property, to the maximum extent permitted by the United States Constitution.

(c) SEVERABILITY.—If any provision of this Act or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected.

By Mr. DURBIN (for himself and Ms. STABENOW):

S. 1192. A bill to establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, today I am introducing the Consumer and Small Business Energy Commission Act. I am pleased to have the support of the Senator from Michigan, Senator STABENOW, in introducing this legislation. This legislation will allow us to better understand the causes of energy price spikes from the consumer and small business perspectives, and better address this pressing issue.

The Consumer and Small Business Energy Commission Act would establish a Consumer and Small Business Energy Commission. The members would be appointed on a bipartisan basis by the Speaker and Minority Leader of the House and the Majority and Minority Leaders of the Senate, as well as the President. The Commission would be comprised of representatives of consumer groups, the energy industry, small businesses, and the Administration. The Commission will study the causes of energy price spikes and issue recommendations on how to avert price spikes in the future.

Sine 1990, residential heating oil, residential natural gas, commercial natural gas, industrial natural gas, and gasoline have all had significantly fluctuating prices. Gasoline price spikes have become commonplace in the Midwest. Escalating home heating and cooling bills have crippled family budgets in the Midwest and Northeast. Farmers and industries dependent on natural gas for the production of fertilizer and other chemical products have also suffered economically. Most recently, natural gas prices have skyrocketed and gasoline prices have shown little sign of falling from the historic highs of the past few months.

We need a comprehensive study of these problems. Some past studies have assessed the long-range supply and demand for energy product. The Federal Trade Commission studied gasoline price spikes in the Midwest, and Senator LEVIN has embarked on a series of hearings exploring gasoline pricing issues. Other studies have investigated narrow or specific abuses of market power in the energy industry, such as in California. The Consumer and Small Business Energy Commission will look at the entire picture, focusing on price fluctuations of all consumer energy products. The list of potential causes that need to be studied includes: insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, possible regulation problems, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient investment in research and development of alternative sources, opportunistic behavior by energy companies, and abuse of market power.

We need to give consumers and small businesses a voice. When consumers go to pay their grocery bills, or their tuition bills, or even their residential electricity bills in most states, and when small businesses go to pay for raw materials, prices are fairly predictable. But when they go to pay for their heating and cooling, natural gas, or gasoline, families and businesses face the frustrating reality of wild price swings.

We need to bring consumers and small businesses to the table together with representatives of the energy industry and government. We need these groups to work collectively, and to consider the range of possible causes of energy price spikes.

A measure very similar to this bill enjoyed strong, bipartisan support last year, and passed as an amendment to the Senate energy bill by a vote of 69–30. The minor changes to this bill include adding direct representation of small businesses to the Commission, expanding the participation of Administration representatives in the study phase, and establishing an Executive Committee to expedite the issuance of the final report, which will include recommendations.

By enacting the Consumer and Small Business Energy Commission Act, we will be able to better understand the causes of energy price spikes and hopefully avert them in the future. I urge my colleagues to join me as a cosponsor of this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1192

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 ''Consumer and Small Business Energy Commission Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics;

(B) electricity price spikes during the California energy crisis of 2001; and

(C) the Midwest gasoline price spikes in spring 2001;

(3) shifts in energy regulation, including the allowance of greater flexibility in competition and trading, have affected price stability and consumers in ways that are not fully understood;

(4) price spikes undermine the ability of low-income families, the elderly, and small businesses (including farmers and other agricultural producers) to afford essential energy services and products;

(5) energy price spikes can exacerbate a weak economy by creating uncertainties that discourage investment, growth, and other activities that contribute to a strong economy;

(6) the Department of Energy has determined that the economy would be likely to perform better with stable or predictable energy prices;

(7) price spikes can be caused by many factors, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(8) consumers and small businesses have few options other than to pay higher energy costs when prices spike, resulting in reduced investment and slower economic growth and job creation;

(9) the effect of price spikes, and possible responses to price spikes, on consumers and small businesses should be examined; and

(10) studies have examined price spikes of specific energy products in specific contexts or for specific reasons, but no study has examined price spikes comprehensively with a focus on the impacts on consumers and small businesses.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Consumer and Small Business Energy Commission established by section 4(a).

(2) CONSUMER ENERGY PRODUCT.—The term ''consumer energy product'' means—

(A) electricity;

(B) gasoline;

(C) home heating oil;

(D) natural gas; and

(E) propane.

(3) CONSUMER GROUP FOCUSING ON ENERGY ISSUES.—The term ''consumer group focusing on energy issues'' means—

(A) an organization that is a member of the National Association of State Utility Consumer Advocates;

(B) a nongovernmental organization representing the interests of residential energy consumers; and

(C) a nongovernmental organization that—

(i) receives not more than ¼ of its funding from energy industries; and

(ii) represent the interests of energy consumers.

(4) ENERGY CONSUMER.—The term ''energy consumer'' means an individual or small business that purchases 1 or more consumer energy products.

(5) ENERGY INDUSTRY.—The term ''energy industry'' means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(6) EXECUTIVE COMMITTEE.—The term ''Executive Committee'' means the executive committee of the Commission.

(7) SMALL BUSINESS.—The term ''small business'' has the meaning given the term

''small business concern'' in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 4. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Consumer and Small Business Energy Commission''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 20 members.

(2) APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(A) 2 shall represent consumer groups focusing on energy issues;

(B) 1 shall represent small businesses; and

(C) 1 shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 1 member from each of—

(A) the Energy Information Administration of the Department of Energy;

(B) the Federal Energy Regulatory Commission;

(C) the Federal Trade Commission; and

(D) the Commodities Future Trading Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERM.—A member shall be appointed for the life of the Commission.

(d) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(1) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(2) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(f) EXECUTIVE COMMITTEE.—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(g) INFORMATION AND ADMINISTRATIVE EXPENSES.—The Federal agencies specified in subsection (b)(3) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(h) DUTIES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(B) MATTERS TO BE STUDIED BY THE COMMISSION.—In conducting the study, the Commission shall—

(i) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(ii) examine the effects of price spikes on consumers and small businesses;

(iii) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(iv) consider—

(I) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(II) proposals for legislative action; and

(III) proposals for voluntary actions by energy consumers and the energy industry.

(2) REPORT.—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(i) TERMINATION.—

(1) DEFINITION OF LEGISLATIVE DAY.—In this subsection, the term ''legislative day'' means a day on which both Houses of Congress are in session.

(2) DATE OF TERMINATION.—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under subsection (h)(2).

By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2003. My friends and colleagues, Senator SMITH and Senator MURRAY, join me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. The Pacific Fishery Management Council has called for a 50 percent reduction in fishing capacity as part of their strategic plan for the recovery of the fishery. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the groundfish fishers' transition away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. It was conceived at a time when the federal government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fishing fleet is now over-capitalized. The CCF's usefulness has not kept up with the times, and now it exacerbates problems facing U.S. fisheries, including the West Coast groundfish fishery.

Now is the time to help fishers, who wish to do so, to leave the fleet.

In Oregon, the amounts in CCF accounts range from $10,000 to over $200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

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

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, and Mr. DOMENICI):

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators DOMENICI, LEAHY, GRASSLEY, and CANTWELL, to introduce the ''Mentally Ill Offender Treatment and Crime Reduction Act of 2003.'' This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example,

typically has more mentally ill inmates than any hospital in the country.

Unfortunately, however, the reality of our criminal justice system is that jails and prisons do not provide a therapeutic environment for the mentally ill and are unlikely to do so any time soon. Indeed, the mentally ill inmate often is preyed upon by other inmates or becomes even sicker in jail. Once released from jail or prison, many mentally ill people end up on the streets. With limited personal resources and little or no ability to handle their illness alone, they often commit further offenses resulting in their re-arrest and re-incarceration. This ''revolving door'' is costly and disruptive for all involved.

Although these problems tend to manifest themselves primarily within the prison system, the root cause of our current situation is found in the mental health system and its failure to provide sufficient community-based treatment solutions. Accordingly, the solution will necessarily involve collaboration between the mental health system and criminal justice system. In fact, it also will require greater collaboration between the substance abuse treatment and mental health treatment communities, because many mentally ill offenders have a drug or alcohol problem in addition to their mental illness.

The purpose of the ''Mentally Ill Offender Treatment and Crime Reduction Act'' is to foster exactly this type of collaboration at the Federal, State, and local levels. The bill provides incentives for the criminal justice, juvenile justice, mental health, and substance abuse treatment systems to work together at each level of government to establish a network of services for offenders with mental illness. The bill's approach is unique, in that it not only would promote public safety by helping curb the incidence of repeat offenders, but it also would promote public health, by ensuring that those with a serious mental illness are treated as soon as possible and as efficiently and effectively as possible.

Among its major provisions, this legislation calls for the establishment of a new competitive grant program, which would be housed at the U.S. Department of Justice, but administered by the Attorney General with the active involvement of the Secretary of Health and Human Services. To ensure that collaboration occurs at the local level, the bill would require that two entities jointly submit a single grant application on behalf of a community.

Applications demonstrating the greatest commitment to collaboration would receive priority for grant funds. If applicants can show that grant funds would be used to promote public health, as well as public safety, and if the program they propose would have the active participation of each joint applicant, and if their grant application has the support of both the Attorney General and the Secretary of Health and Human Services, then it would receive priority for funding.

Additionally, the bill would permit grant funds to be used for a variety of purposes, each of which embodies the goal of collaboration. First, grant funds may be used to provide courts with more options, such as specialized dockets, for dealing with the non-violent offender who has a serious mental illness or a co-occurring mental illness and drug or alcohol problem. Second, grant funds could be used to enhance training of mental health and criminal justice system personnel, who must know how to deal appropriately with the mentally ill offender. Third, grant funds could be devoted to programs that divert the criminal justice system into treatment those non-violent offenders with severe and persistent mental illness. Finally, correctional facilities may use grant funds to promote the treatment of inmates and ease their transition back into the community upon release from jail or prison.

In specifically authorizing grant funds to be used to promote more options for courts to deal with mentally ill offenders, this bill builds on legislation that I introduced two years ago with my colleague from Ohio, Congressman TED STRICKLAND. That measure, which became law, authorized $10 million per year for the establishment of more mental health courts. I have long supported mental health courts, which enable the criminal justice system to provide an individualized treatment solution for a mentally ill offender, while also requiring accountability of the offender. The legislation we are introducing today would make possible the creation or expansion of more mental health courts, and it also would promote the funding of treatment services that support such courts.

In addition to making planning and implementation grants available to communities, the ''Mentally Ill Offender Treatment and Crime Reduction Act'' also calls for an Interagency Task Force to be established at the federal level. This Task Force would include the Attorney General and the Secretary of Health and Human Services, as well as the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Commissioner of Social Security. The Task Force would be charged with identifying new ways that federal departments can work together to reduce recidivism among mentally ill adults and juveniles.

Finally, the bill would direct the Attorney General and Secretary of Health and Human Services to develop a list of ''best practices'' for criminal justice personnel to use when diverting mentally ill offenders from the criminal justice system.

Ultimately, this is a good bill and one that is long overdue. I encourage my colleagues to support this important legislative measure.

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. 1194

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 ''Mentally Ill Offender Treatment and Crime Reduction Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness; and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) reduce rearrests among adult and juvenile offenders with mental illness, or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through diversion in appropriate cases involving non-violent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health treatment personnel about criminal

offenders with mental illness and the appropriate response to such offenders in the criminal justice system;

(6) promote communication between criminal justice or juvenile justice personnel, mental health treatment personnel, nonviolent offenders with mental illness, and other support services such as housing, job placement, community, and faith-based organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

''(A) a criminal justice agency, a juvenile justice agency, or a mental health court; and

''(B) a mental health agency.

''(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

''(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—

''(A) IN GENERAL.—The terms 'diversion' and 'alternative prosecution and sentencing' mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

''(B) APPROPRIATE USE.—In this paragraph, the term 'appropriate use' includes the discretion of the judge or supervising authority and the leveraging of justice sanctions to encourage compliance with treatment.

''(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government that is responsible for mental health services.

''(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.

''(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—

''(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

''(B) that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities.

''(8) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile who—

''(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

''(B) has faced or is facing criminal charges and is deemed eligible by a designated pretrial screening and diversion process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.

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

''(10) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

''(b) PLANNING AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders in order to promote public safety and public health.

''(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

''(A) mental health courts or other court-based programs for preliminarily qualified offenders;

''(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel in procedures for identifying the symptoms of mental illness and co-occurring mental illness and substance abuse disorders in order to respond appropriately to individuals with such illnesses;

''(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

''(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

''(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

''(3) APPLICATIONS.—

''(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

''(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

''(4) PLANNING GRANTS.—

''(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

''(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

''(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

''(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2003.

''(5) IMPLEMENTATION GRANTS.—

''(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

''(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

''(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

''(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to jointly ensure that the provision of mental health treatment services is integrated with the provision of substance abuse treatment services, where appropriate;

''(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

''(iv) involve, to the extent practicable, in developing the grant application—

''(I) individuals with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) the families and advocates of such individuals under subclause (I).

''(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

''(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

''(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

''(II) develop guidelines that can be used by personnel of a criminal or juvenile justice agency to identify individuals with mental illness or co-occurring mental illness and substance abuse disorders.

''(ii) SERVICES.—Applicants for an implementation grant shall—

''(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

''(II) specify plans for making mental health treatment services available and accessible to mentally ill offenders at the time of their release from the criminal justice system, including outside of normal business hours;

''(III) ensure that preliminarily qualified offenders served by the collaboration program will have access to effective and appropriate community-based mental health services, or, where appropriate, integrated substance abuse and mental health treatment services;

''(IV) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

''(V) include strategies to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

''(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

''(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

''(F) FINANCIAL.—Applicants for an implementation grant shall—

''(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

''(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as medicaid, medicare, and the State Children's Insurance Program); and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

''(G) OUTCOMES.—Applicants for an implementation grant shall—

''(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

''(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

''(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

''(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

''(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

''(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

''(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

''(I) criminal justice system personnel to identify and respond appropriately to the unique needs of an adult or juvenile with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

''(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

''(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

''(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program; and

''(3) have the support of both the Attorney General and the Secretary.

''(d) MATCHING REQUIREMENTS.—

''(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

''(A) 80 percent of the total cost of the program during the first 2 years of the grant;

''(B) 60 percent of the total cost of the program in year 3; and

''(C) 25 percent of the total cost of the program in years 4 and 5.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

''(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

''(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

''(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

''(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

''(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

''(5) develop a uniform program evaluation process; and

''(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

''(f) INTERAGENCY TASK FORCE.—

''(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

''(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

''(A) identify policies within their departments which hinder or facilitate local collaborative initiatives for adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders; and

''(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to adults and juveniles with mental illness or co-occurring mental illness and substance abuse disorders.

''(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $100,000,000 for each of fiscal years 2004 and 2005; and

''(2) such sums as may be necessary for fiscal years 2006 through 2008.''.

(b) LIST OF ''BEST PRACTICES''.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of ''best practices'' for appropriate diversion from incarceration of adult and juvenile offenders.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

''Sec. 2991. Adult and juvenile collaboration programs.''.

Mr. LEAHY. Mr. President, I have joined today with Senators DEWINE, GRASSLEY, CANTWELL, and DOMENICI to introduce legislation that will help State and local governments reduce crime by providing more effective treatment for the mentally ill. All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a series of minor offenses. Law enforcement officers' ever scarcer time is being occupied by these offenders, who divert them from their more urgent responsibilities. Meanwhile, offenders find themselves in prisons or jails, where little or no appropriate medical care is available for them. This bill give State and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public's safety, and mentally ill offenders.

I held a Judiciary Committee hearing last June on the criminal justice system and mentally ill offenders. At that

hearing, we heard from State mental health officials, law enforcement officers, corrections officials, and the representative of counties around our Nation. All agreed that people with untreated mental illness are more likely to commit crimes, and that our State mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. As this legislation's findings detail, more than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, about 20 percent of youth in the juvenile justice system have serious mental health problems, and up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. This is a serious problem that I hear about often when I talk with law enforcement officials and others in Vermont.

Under this bill, State and local governments can apply for funding to a. create or expand mental health courts or other court-based programs, which can divert qualified offenders from prison to receive treatment; b. create or expand programs to provide specialized training for criminal justice and mental health system personnel; c. create or expand local treatment programs that serve individuals with mental illness or co-occurring mental illness and substance abuse disorders; and d. promote and provide mental health treatment for those incarcerated in or released from a penal or correctional institution.

This legislation brings together law enforcement, corrections, and mental health professionals—indeed, officials from each of these fields in Vermont have offered their advice and support in drafting this bill. They know that the States have been dealing with the unique problems created by mentally ill offenders for many years, and that a Federal response is overdue. I look forward to working with them, and with Senator DEWINE, Representative TED STRICKLAND, and other Members, to see this bill enacted this Congress.

Mr. GRASSLEY. Mr. President, I am pleased today to be once again introducing with Senator DEWINE the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. This bipartisan bill authorizes the Attorney General to administer a grant program to assist communities in planning and implementing services for mentally ill offenders. These grants will increase public safety by fostering collaborative efforts by criminal justice, mental health, and substance abuse agencies. I have seen these types of collaborative programs work in Iowa and I know that they can work elsewhere.

We have an obligation to ensure that the public is protected from these offenders who suffer from mental illness. The Bureau of Justice Statistics has reported that over 16 percent of adults incarcerated in U.S. jails and prison have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention has reported that over 20 percent of youth in the juvenile justice system have serious mental health problems. This grant program will help increase public safety, as well as reduce the number of mentally ill adults and juveniles incarcerated in correctional facilities.

These grant dollars may be used by States and localities to establish mental health courts or other diversion programs, create or expand community-based treatment programs, provide in-jail treatment and transitional services, and for training of criminal justice and mental health system employees. The state of Iowa and a number of its counties are already leading the way in finding creative and collaborative programs to address the problems presented by these mentally ill criminals. Working together, the criminal justice, mental health, and substance abuse professionals can make a difference in the lives of this special class of offenders and also increase the safety of the public.

I want to thank Senator DEWINE for his leadership on this important issue. He has drafted a bill that reflects a common sense approach to a serious public safety issue. I also want to encourage my colleagues to support this important piece of legislation.

Ms. CANTWELL. Mr. President, I am proud to join with Senator DEWINE and Senator PATRICK LEAHY along with Senators GRASSLEY and DOMENICI in cosponsoring this important legislation. This bill will take steps to reduce the prevalence of the mentally ill in the criminal justice system by providing more effective treatment. Forty percent of the mentally ill in this country come in contact with the criminal justice system, many for minor but repeated offenses. This wastes tremendous law enforcement resources that can be better focused on more urgent responsibilities and results in many of the mentally ill sitting in jail cells where little treatment is available to them. My State has already taken some forward looking action in this area, and this legislation is an important next step.

The Mentally Ill Crime Reduction Act of 2003 funds new grants that will give States the tools they need to work collaboratively to break the cycle of mentally ill people repeatedly moving through the corrections system. This legislation will allow more jurisdictions to follow Seattle's lead in creating mental health courts that monitor individuals to keep them in treatment and out of jail. It will provide much needed funding to mental health and substance abuse programs, and it will provide critical dollars for treatment of those incarcerated in or released from prisons. The legislation has the support of Washington State Corrections Director Joe Lehman and the Washington Department of Social and Health Services as well as the National Alliance for the Mentally Ill and the Council of State Governments. I'd like to especially thank the Bazelon Center for its work in this area.

Last year, the Council on State Governments Criminal Justice/Mental Health Consensus Project issued a report that detailed the imbalance of the mentally ill in the criminal justice system. The Project found that, while those suffering from serious mental illness represent approximately five percent of the population of this country, they represent over 16 percent of the prison population. Of that 16 percent, nearly three-quarters also have a substance abuse problem, and nearly half were incarcerated for committing a nonviolent crime. In some jurisdictions recidivism rates for mentally ill inmates can reach over 70 percent. Police, judges and prosecutors are usually without options of what to do with mentally ill patients, given the lack of health services, and thus many end up in jail for minor crimes. The Los Angeles County Jail alone holds as many as 3,300 individuals with mental illness, more than any state hospital or mental health institution in the United States.

Each time a mentally ill individual is incarcerated, his or her mental condition will likely worsen. Once incarcerated, people with mental illness are particularly susceptible to harming themselves or others. This environment exacerbates their mental illness, yet access to effective counseling or medication is severely limited. This in turn brings on depression or delusions that immobilize them; many have spent years trying to mask torments or hallucinations with alcohol or drugs and on average spend more time in prisons.

This problem is particularly acute in the area of juvenile offenders. The Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of children in the juvenile justice system, over 155,000, have serious mental health problems. This bill creates specialized training programs for juvenile and criminal justice agency personnel in identifying symptoms of mentally ill individuals that will help identify and treat juveniles at an earlier stage.

The prevalence of people with mentally illness in the criminal justice system comes at a high price to taxpayers. In King County, WA, officials identified 20 people who had been repeatedly hospitalized, jailed or admitted to detoxification centers. These emergency services cost the county approximately $1.1 million in a single year. In contrast, an Illinois Cooperative Program which brought criminal justice and mental health service personnel together to provide services to those mentally ill patients released from jail calculated that the 30 individuals in the study spend approximately 2,200 days less in jail, and 2,100 fewer days, in hospitals than they had the previous year, for a savings of $1.2 million dollars.

In 1997, Seattle Fire Department Captain Stanley Stevenson was murdered by an individual who had been found incompetent by the local municipal court but was released because of the lack of alternative options. This murder was the impetus for the creation of a Task Force that led directly to the formation of the King County Mental Health Court in 1999. The primary reason why this Court has been growing more effective in dealing with mentally ill offenders is that it has increased cooperation between the mental health and criminal justice systems, institutions that have traditionally not worked closely together. Building on the model of the drug court, the mental health court closely monitors compliance with treatment regimens by assembling a team proficient in dealing with the mentally ill and at using the stick of the criminal justice system to make that treatment work. The vast majority of these mentally ill individuals are responsive to treatment.

This program has progressed well and is becoming an effective means of helping mentally ill offenders, assuring public safety, and running a more cost efficient system. Yet to allow this system to continue to expand in Seattle and other communities in Washington State, as well as to allow other States to begin using these types of programs, federal grant funding is critical. That is what this bill provides.

Collaboration between mental health, substance abuse, law enforcement, judicial, and other criminal justice personnel is also critical to the success of our mental health court program in Seattle. It is only through full coordination between the criminal justice and the mental health treatment community at the Federal and the local level that these efforts will be successful.

Similarly, only through full coordination at the Federal and local level will this bill be able to make a critical difference. I believe that some additional improvements can be made to strengthen that critical coordination and I look forward to working with Senator DEWINE and Senator LEAHY to accomplish that goal. I welcome the introduction of this legislation and look forward to working with my cosponsors to make this bill law in the next Congress.

By Mr. KYL (for himself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. FRIST, Mr. ALEXANDER, Mrs. LINCOLN, Mr. BUNNING, Mr. SMITH, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. KERRY, Mr. KENNEDY, and Mr. HATCH):

S. 1195. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the medicaid drug rebate program; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today with Senators BINGAMAN, ROCKEFELLER, MCCAIN, FRIST, ALEXANDER, LINCOLN, BUNNING, SMITH, BOB GRAHAM, SANTORUM, KERRY, KENNEDY and HATCH to introduce a modest but important piece of legislation, the Safety Net Hospital Pharmacy Access Act. This legislation would correct a small error in current law that prohibits safety-net hospitals from being able to negotiate with pharmaceutical companies for the lowest prices they can get.

Let me provide some background on this problem. In 1990, Congress established the Medicaid drug-rebate program to ensure that the Medicaid program pays no more than a pharmaceutical manufacturer's ''best price'' for a covered outpatient drug. So whatever was the lowest price the manufacturer offered to anyone, this becomes the price Medicaid pays under this ''best price'' rule.

Unfortunately, this rule provides an incentive for pharmaceutical manufacturers not to offer deep discounts to anyone, given that these prices may become the new price that Medicaid pays. Given this, in 1992 Congress exempted some organizations from the Medicaid best price calculations so that pharmaceutical manufacturers would offer them lower drug prices. These organizations include the VA, the Department of Defense, and section 340B covered entities. These 340B hospitals are so called because they fall under section 340B of the Public Health Services Act, which defines 12 categories of publicly funded safety net providers. There are approximately 160 hospitals in the country that fall under the 340B program. These hospitals often bear the burden of providing a substantial amount of uncompensated care in dealing with the indigent or the uninsured.

Unfortunately, the Center for Medicare and Medicaid Services interpreted the 1992 law as only applying to outpatient drugs purchased by these entities. Therefore, drugs purchased for inpatient use at the 340B hospitals are covered by the Medicaid best price rule. This means these hospitals actually pay more for these drugs than for drugs that they can negotiate their own prices for in the outpatient setting. The legislation I am introducing today corrects this problem by allowing the 340B hospitals to also negotiate for lower drug prices in the inpatient setting.

This is an important correction since these hospitals are often providing free care to the indigent and the uninsured. And let me be clear that this legislation would not require pharmaceutical companies to provide discounts to these hospitals. All this legislation would do is allow the hospitals to negotiate for lower prices. However, in my discussion with representatives of hospitals that would be affected by this law, they believe they would be able to save money.

For instance, the Maricopa County hospital, which is the public hospital for the city of Phoenix, believes that it could save up to $1 million a year. Since this hospital constantly runs in the red because of the massive amount of uncompensated care it is required under federal law to provide, such savings would be very helpful.

I want to thank the bill's cosponsors. I also want to urge my colleagues to take a close look at this important legislation. I am going to work to see that it is passed this year.

By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. FITZGERALD, and Mr. HAGEL):

S. 1196. A bill to eliminate the marriage penalty permanently in 2003; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from one of the most egregious, anti-family aspects of the tax code—the marriage penalty. Relieving American taxpayers of this burden has been one of my highest priorities as a U.S. Senator.

Last week President Bush signed into law a $350 billion jobs and economic growth package to put Americans back to work and stimulate the economy. The bill provides immediate marriage penalty relief by enlarging the standard deduction and the 15 percent tax bracket for married couples filing jointly to twice that as for single filers. This provision will save 34 million married couples an average of $589 this year alone.

Enacting marriage penalty relief is a giant step for tax fairness, but it may be fleeting. The Jobs and Growth Act was just signed, but even as the ink dries a tax increase on married couples looms in the near future. Since the bill was restricted by artificial limitations to $350 billion, the marriage penalty provisions will only be in effect for two years. In 2005, marriage will again be a taxable event for millions of Americans. Similar restrictions were placed on the 2001 tax cut, so, while relief will be phased in by 2009, it will disappear for good in 2011 unless we act decisively.

Millions of couples across America will be penalized once more by our tax code simply because they are married. Without marriage penalty relief, 48 percent of married couples will again pay the government an average $1,400 more in taxes.

Given the state of the economy and the difficulty many families face in making ends meet, we must make sure we do not backtrack on this important reform.

Without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle, and the benefits of marriage are well established. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or

to suffer from child abuse. Research indicates they are less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

The bill I am offering would make the marriage penalty relief in the Jobs and Growth Act permanent. It also will accelerate changes to the earned income tax credit that were passed in the 2001 tax reform bill. This will reduce the marriage penalty on lower income couples.

We cannot be satisfied until couples never again must decide between love and money. Marriage should not be a taxable event.

I call on the Senate to finish the job we started and say ''I do'' to providing permanent marriage penalty relief today.

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. 1196

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 ''Permanent Marriage Penalty Relief Act of 2003''.

SEC. 2. ACCELERATION OF MARRIAGE PENALTY RELIEF PROVISIONS.

(a) ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 63(c) of the Internal Revenue Code of 1986 (relating to standard deduction) is amended—

(A) by striking ''the applicable percentage of the dollar amount in effect under subparagraph (D)'' in subparagraph (A) and inserting ''200 percent of the dollar amount in effect under subparagraph (C)'';

(B) by adding ''or'' at the end of subparagraph (B);

(C) by striking subparagraph (C);

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

(E) by striking the last sentence.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 63(c) of such Code is amended by striking ''(2)(D)'' each place it appears and inserting ''(2)(C)''.

(B) Paragraph (7) of section 63(c) of such Code is repealed.

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

(b) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

(1) IN GENERAL.—Paragraph (8) of Section 1(f) of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended to read as follows:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

''(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

''(i) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under clause (i).

''(B) ROUNDING.—If any amount determined under subparagraph (A)(i) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (f) of section 1 of such Code is amended by striking ''PHASEOUT'' and inserting ''ELIMINATION''.

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

(c) MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.—

(1) INCREASED PHASEOUT AMOUNT.—

(A) IN GENERAL.—Section 32(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amounts) is amended by striking '''increased by—'' and all that follows and inserting ''increased by $3,000.''.

(B) INFLATION ADJUSTMENT.—Paragraph (1)(B)(ii) of section 32(j) of such Code (relating to inflation adjustments) is amended to read as follows:

''(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

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

(2) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—

(A) IN GENERAL.—Paragraph (2) of section 6213(g) of such Code is amended by striking ''and'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', and'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on January 1, 2003.

(d) CONFORMING AMENDMENTS.—

(1) REPEAL OF AMENDMENT.—Sections 303(g) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) REPEAL OF SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 301, 302, and 303 (other than subsection (g) of such section 303) of such Act (relating to marriage penalty relief).

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. DORGAN):

S. 1197. A bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, imagine for a moment you have gone to the doctor to have a medical condition evaluated. Uncertain as to what your injury may be, your doctor sends you to a specialist for a medical imaging examination to determine the extent of your injury and the proper course of treatment for it.

Or, imagine, having heard the dreaded diagnosis of cancer, going to the same facility for radiation therapy.

In either case, our sense of concern and anxiety about our medical condition will serve to focus our attention on ourselves, and not on the caregivers providing us with the treatment we need to recover, or in the case of cancer, to survive.

But, what would you say if you knew that the individual helping to direct your diagnosis or the one providing your course of treatment is someone who has done nothing more to earn his credentials than spend a few weeks getting some on the job training.

Imagine how you would feel and the level of trust you would have in a system that allowed such a thing to happen.

Unfortunately, that's an all too common occurrence with the present state of our health care system.

But, it is a problem that we can solve with the passage of legislation I am introducing today.

The Consumer Assurance of Radiological Excellence, RadCARE, Act will ensure that there are coherent standards in place for those who plan and deliver radiation therapy treatments. I am pleased to be joined by my distinguished colleague from Massachusetts, Senator KENNEDY, as well as Senators DASCHLE, LAUTENBERG, and DORGAN, in this effort, which will bring peace of mind and restore the confidence of the health consumer in the treatment they receive from those who perform radiologic procedures. It will also increase awareness of the skills of these health care professionals and raise the level of visibility their profession enjoys in the public eye.

It is important that we establish standards for personnel who perform radiologic procedures because physicians depend upon medical imaging examinations to diagnose disease and identify and treat injuries of all kinds. The quality of a radiologic procedure hinges upon the expertise of the professionals who assist in administering them.

Currently, 15 States as well as the District of Columbia do not regulate or register radiologic personnel.

To address that lack of attention, the RadCARE Act will strengthen the Consumer-Patient Radiation Health and Safety Act of 1981. The current law calls for States to establish voluntarily a set of educational and credentialing standards for radiologic and medical imaging personnel. Yet many States still do not have licensing laws in place that meet the standards recommended by the Federal Government. The RadCARE Act will require that radiologic and medical imaging personnel meet a minimum credentialing standard.

The RadCARE Act will not affect states that have a suitable licensing system or those that have mandated higher standards than required by Federal law. If a state has no meaningful

regulations or licensing system, however, then the Federal standards will apply. The RadCARE Act also has a provision to ensure access to quality healthcare in rural regions where a one-size-fits all approach may not be applicable. Enforcement of the RadCARE Act would be achieved by restricting Medicare and Medicaid reimbursement to facilities that employ personnel who meet the minimal federal standards.

The RedCARE Act will improve the safety of radiological procedures by reducing the risk of harmful overexposure to radiation. Healthcare costs will also be lowered by decreasing the number of repeated procedures due to personnel error. Additionally, the RadCARE Act will enable radiologists and other healthcare professionals to have access to quality information so that patients receive the best health care possible.

This legislation is supported by a variety of organizations concerned with the quality of these procedures, including the American Society of Radiologic Technologists, the Society of Nuclear Medicine Technologist Section, the American Association of Medical Dosimetrists, the Nuclear Medicine Technology Certification Board, the Association of Vascular and Interventional Radiographers, and the other members of the Alliance for Quality Medical Imaging and Radiation Therapy, which represents the more than 275,000 medical imaging and radiation therapy professionals in the United States.

When it comes right down to it, it's a big enough battle to fight the cancers or the injuries to our bodies that require such invasive treatments or diagnosis. We shouldn't have to worry about the level of competence of those who are providing us with the services we so desperately require for the maintenance of our health.

I urge my colleagues to join me in supporting and passing this much needed legislation. It respects the power of the states who have addressed this problem as it provides minimum standards for those who have not.

More importantly, its enactment into law will do a great deal to increase the level of confidence of the American health consumer in our healthcare system.

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

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

S. 1197

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 ''Consumer Assurance of Radiologic Excellence Act of 2003''.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) More than 300,000,000 medical imaging examinations and radiation therapy treatments are administered annually in the United States.

(2) Seven out of every 10 Americans undergo a medical imaging examination or radiation therapy treatment every year in the United States.

(3) The administration of medical imaging examinations and radiation therapy treatments and the effect on individuals of such procedures have a substantial and direct effect upon public health and safety and upon interstate commerce.

(4) It is in the interest of public health and safety to minimize unnecessary or inappropriate exposure to radiation due to the performance of medical imaging and radiation therapy procedures by personnel lacking appropriate education and credentials.

(5) It is in the interest of public health and safety to have a continuing supply of adequately educated persons and appropriate accreditation and certification programs administered by State governments.

(6) Persons who perform or plan medical imaging or radiation therapy, including those employed at Federal facilities or reimbursed by Federal health programs, should be required to demonstrate competence by reason of education, training, and experience.

(7) The protection of public health and safety from unnecessary or inappropriate medical imaging and radiation therapy procedures and the assurance of efficacious procedures are the responsibilities of both the State and the Federal Governments.

(8) Facilities that conduct medical imaging or radiation therapy engage in and affect interstate commerce. Patients travel regularly across State lines to receive medical imaging services or radiation therapy. Facilities that conduct medical imaging or radiation therapy engage technicians, physicians, and other staff in an interstate market, and purchase medical and other supplies in an interstate market.

(9) In 1981, Congress enacted the Consumer-Patient Radiation Health and Safety Act of 1981 (Public Law 97-35) which established minimum Federal standards for the accreditation of education programs for persons who perform or plan medical imaging examinations and radiation therapy treatments and for the certification of such persons. The Act also provided the States with a model State law for the licensing of such persons.

(10) Twenty-two years after the enactment of the Consumer-Patient Radiation Health and Safety Act of 1981—

(A) 13 States do not require licensure of any kind for persons who perform or plan medical imaging examinations and radiation therapy treatments;

(B) 37 States license, regulate, or register radiographers;

(C) 28 States license radiation therapists;

(D) 22 States license nuclear medicine technologists;

(E) 8 States license or require board certification of medical physicists; and

(F) no States regulate or license medical dosimetrists.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the accreditation of education programs for, and the licensure or certification of, persons who perform, plan, evaluate, or verify patient dose for medical imaging examinations and radiation therapy treatments; and

(2) to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

SEC. 3. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

''Subpart 4—Medical Imaging and Radiation Therapy

"SEC. 355. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.

''(a) IN GENERAL.—The Secretary shall establish standards to assure the safety and accuracy of medical imaging or radiation therapy. Such standards shall include licensure or certification, accreditation, and other requirements determined by the Secretary to be appropriate.

''(b) EXEMPTIONS.—The standards established under subsection (a) shall not apply to physicians (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))), nurse practitioners and physician assistants (as defined in section 1861(aa)(5) of the Social Security Act (42 U.S.C. 1395x(aa)(5))).

''(c) REQUIREMENTS.—Under the standards established under subsection (a), the Secretary shall ensure that individuals prior to performing or planning such imaging or therapy—

''(1) have successfully completed a national examination approved by the Secretary under subsection (d) for individuals who perform or plan medical imaging or radiation therapy; and

''(2) meet such other requirements relating to medical imaging or radiation therapy as the Secretary may prescribe.

''(d) APPROVED BODIES.—

''(1) IN GENERAL.—The Secretary shall certify private nonprofit organizations or State agencies as approved bodies with respect to the accreditation of educational programs or the administration of examinations to individuals for purposes of subsection (c)(1) if such organizations or agencies meet the standards established by the Secretary under paragraph (2) and provide the assurances required under paragraph (3).

''(2) STANDARDS.—The Secretary shall establish minimum standards for the certification of approved bodies under paragraph (1) (including standards for recordkeeping, the approval of curricula and instructors, the charging of reasonable fees for accreditation or for undertaking examinations), and other additional standards as the Secretary may require.

''(3) ASSURANCES.—To be certified as an approved body under paragraph (1), an organization or agency shall provide the Secretary satisfactory assurances that the body will—

''(A) comply with the standards described in paragraph (2);

''(B) notify the Secretary in a timely manner before the approved body changes the standards of the body; and

''(C) provide such other information as the Secretary may require.

''(4) WITHDRAWAL OF APPROVAL.—

''(A) IN GENERAL.—The Secretary may withdraw the certification of an approved body if the Secretary determines the body does not meet the standards under paragraph (2).

''(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the certification of an approved body under subparagraph (A), the accreditation of an individual or the completion of an examination administered by such body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such individual to obtain another accreditation or to complete another examination.

''(e) EXISTING STATE STANDARDS.—Standards for the licensure or certification of personnel, accreditation of educational programs, or administration of examinations,

established by a State prior to the effective date of the standards promulgated under this section, shall be deemed to be in compliance with the requirements of this section unless the Secretary determines that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this section.

''(f) EVALUATION AND REPORT.—The Secretary shall periodically evaluate the performance of each approved body under subsection (d) at an interval determined appropriate by the Secretary. The results of such evaluations shall be included as part of the report submitted to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives in accordance with 354(e)(6)(B).

''(g) DELIVERY OF AND PAYMENT FOR SERVICES.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations to ensure that all programs that involve the performance of or payment for medical imaging or radiation therapy, that are under the authority of the Secretary, are performed in accordance with the standards established under this section.

''(h) ALTERNATIVE STANDARDS FOR RURAL AREAS.—The Secretary shall determine whether the standards developed under subsection (a) must be met in their entirety with respect to payment for medical imaging or radiation therapy that is performed in a geographic area that is determined by the Medicare Geographic Classification Review Board to be a ''rural area''. If the Secretary determines that alternative standards for such rural areas are appropriate to assure access to quality medical imaging, the Secretary is authorized to develop such alternative standards. Alternative standards developed under this subsection shall apply in rural areas to the same extent and in the same manner as standards developed under subsection (a) apply in other areas.

''(i) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate such regulations as may be necessary to implement this section.

''(j) DEFINITIONS.—In this section:

''(1) APPROVED BODY.—The term 'approved body' means a nonprofit organization or State agency that has been certified by the Secretary under subsection (d)(1) to accredit or administer examinations to individuals who perform or plan medical imaging or radiation therapy.

''(2) MEDICAL IMAGING.—The term 'medical imaging' means any procedure or article, excluding medical ultrasound procedures, intended for use in the diagnosis or treatment of disease or other medical or chiropractic conditions in humans, including diagnostic X-rays, nuclear medicine, and magnetic resonance procedures.

''(3) PERFORM.—The term 'perform', with respect to medical imaging or radiation therapy, means—

''(A) the act of directly exposing a patient to radiation via ionizing or radio frequency radiation or to a magnetic field for purposes of medical imaging or for purposes of radiation therapy; and

''(B) the act of positioning a patient to receive such an exposure.

''(4) PLAN.—The term 'plan' with respect to medical imaging or radiation therapy, means the act of preparing for the performance of such a procedure to a patient by evaluating site-specific information, based on measurement and verification of radiation dose distribution, computer analysis, or direct measurement of dose, in order to customize the procedure for the patient.

''(5) RADIATION THERAPY.—The term 'radiation therapy', means any procedure or article intended for use in the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of radiation.''.

By Mr. DODD:

S. 1198. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Focus on Committed and Underpaid Staff for Children's Sake Act. I am pleased that Senators KENNEDY, MURRAY, and BINGAMAN are joining me as original cosponsors and that companion legislation is being introduced in the House today by Representatives GEORGE MILLER and PATRICK KENNEDY.

The need for child care has become a daily fact of life for millions of parents nationwide. Sixty-five percent of mothers with children under age six and 78 percent of mothers with children ages 6 to 13 are in the labor force. Each day, 13 million preschool children, including 6 million infants and toddlers, spend some part of their day in child care.

The quality of that care has a tremendous impact on the critical early years of children's development. And, the most powerful determinant of the quality of child care is the training, education, and pay of those who spend 8–10 hours a day caring for our children.

Yet, what we know about the child care field is alarming. Despite the fact that continuity of care is critical for the emotional development of children, staff turnover at child care centers averages 30 percent per year—four times greater than the turnover rate for elementary school teachers.

We as a society say there is no more important task than helping to raise a child. Yet, according to the Bureau of Labor Statistics, we pay the average child care worker about $16,500 a year—barely above the poverty level for a family of three. Few child care providers have basic benefits like health coverage or paid leave. Only a small fraction of child care workers have graduated from college.

We pay people millions of dollars a year to throw baseballs, to shoot basketballs and to swing golf clubs. What does that say about our priorities when at the same time we pay those who care for our most precious resource—our children—poverty-level wages?

A report by the University of California, Berkeley and the Center for Child Care Workforce on child care providers' pay, training and education highlighted the current crisis in the child care field. In a survey of child care centers in three California communities, the study found that three-quarters of all child care staff employed in 1996 were no longer on the job in 2000. Some centers reported 100 percent turnover. Additionally, nearly half of the child care providers who had left had a Bachelor's degree, compared to only one-third of the new teachers. Some 49 percent, nearly half, of those who had left their job, left the child care field entirely.

It's clear that if we want to attract quality teachers to the child care field, the pay has to better reflect the value we place on their work. We can't attract them and we can't keep them if we don't pay them a living wage.

The legislation I am introducing today will provide states with funds to increase child care worker pay based on the level of education—the greater the level of education, the greater the increase in pay. In addition, the legislation will provide scholarships of up to $1,500 for child care workers who want to further their early childhood education training by getting a college degree, an Associate's degree, or a child development associate credential.

The legislation also includes a separate allotment to states to address access to health care coverage by child care workers. States would be free to develop their own creative methods to improve access to health care, but the intent is to ensure that an industry that works with children—who as many parents know, often come down with a variety of illnesses, particularly preschool age children—would have greater access to comprehensive and affordable health care coverage.

We will never make significant strides in improving the quality of child care in this Nation if we fail to address one of the leading problems—attracting and retaining a quality child care workforce. It is time to invest in our children by investing in those who dedicate their lives to caring for our children.

I ask unanimous consent to print a short summary of the bill following my remarks.

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

THE FOCUS ACT: FOCUS ON COMMITTED AND UNDERPAID STAFF OR CHILDREN'S SAKE ACT

Background: According to the Department of Labor, the average wage for a child care provider is $8.16 an hour—$16,980 per year. Despite the important role child care providers play in early childhood development and learning, child care providers earn less than bus drivers ($29,430), barbers ($21,190), and janitors ($19,800). The turnover rate in the child care field is high—30 percent. But, to offer compensation to attract and retain high quality staff, child care programs would be required to charge fees that many parents would not be able to afford. Current law reimbursement rates, which are woefully inadequate for center-based and family day care homes already shut out too many parents from the child care market.

The FOCUS Act: The purpose of the FOCUS Act is to establish a Child care Provider Retention and development Grant Program, a Child Care Provider Scholarship Program, and to improve access to health coverage by child care workers and their dependents in order to reward and promote retention of committee, quality child care providers.

Child Care Provider Retention and Development Grant Program: The FOCUS Act provides grants to states to supplement the

wages of full-time child care workers who have a child development associate (CDA) credential by at least $1,000. A child care worker who has a Bachelors Degree in child development or early child education shall receive a grant of at least twice as much as grants made to providers who have an Associates degree in the area of child development or early child education. Grants to providers with an AA degree shall be at least 150 percent of grants made to those with a CDA. States shall provide grants in progressively larger dollar amounts to child care providers to reflect the number of years worked as a child care provider.

Child Care Provider Scholarships: The FOCUS Act provides grants to states for child care providers who have been employed for at least a year in the child care field—maximum grant is $1,500, to further staff education and training. FOCUS Act scholarships are not counted against other federal education aid.

Health Care Coverage for Child Care Providers: The FOCUS Act provides grants to states to provide better access to health coverage for child care workers. States retain a great deal of flexibility in determining how they will improve access to health care and health coverage by child care providers.

Funding: For FY 2004, the FOCUS Act authorizes $500 million for wage and scholarship initiatives and $200 million for health care initiatives. Such sums are authorized for fiscal years 2005–2008.

Of the $500 million for wage and scholarship initiatives, 67.5 percent is for grants to attract and retain a quality child care workforce and 22.5 percent is for scholarships to promote a child care workforce better educated on childhood development.

Set-aside: 3 percent for Indian Tribes and tribal organizations.

Funding formula: based on the number of children under age 5 and the percentage of children receiving free or reduced price lunches. 90/10 funding 1st year; 85/15 funding 2nd year; 80/20 funding 3rd year; 75/25 funding fourth and subsequent years.

By Mr. FEINGOLD (for himself, Mrs. LINCOLN, and Mr. MCCAIN):

S. 1199. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that will help to ensure that all of our veterans know about Federal benefits to which they may be entitled by improving outreach programs conducted by the Department of Veterans Affairs.

I am please to be joined in this effort by the Senator from Arkansas, Mrs. LINCOLN, and the Senator from Arizona, Mr. MCCAIN.

Three years ago, the Wisconsin Department of Veterans Affairs, WDVA, launched a statewide program called ''I Owe You.'' Under the direction of Secretary Ray Boland, the program encourages veterans to apply, or to reapply, for benefits that they earned from their service in the United States military.

As part of this program, WDVA has sponsored six events around Wisconsin called ''Supermarkets of Veterans Benefits'' at which veterans can begin the process of learning whether they qualify for Federal benefits from the Department of Veterans Affairs, VA. These events, which are based on a similar program in Georgia, supplement the work of Wisconsin's County Veterans Service Officers and veterans service organizations by helping our veterans to reconnect with the VA and to learn more about services and benefits for which they may be eligible. More than 11,000 veterans and their families have attended the supermarkets, which include information booths with representatives from WDVA, VA, and veterans service organizations, as well as a variety of Federal, State, and local agencies. I was proud to have members of my staff speak with veterans and their families at a number of these events. These events have helped veterans and their families to learn about numerous topics, including health care, how to file a disability claim, and pre-registration for internment in veterans cemeteries.

The Institute for Government Innovation at Harvard University's Kennedy School of Government recognized the ''I Owe You'' program by naming it a semi-finalist for the 2002 Innovations in American Government Award. The program was also featured in the March/April 2003 issue of Disabled American Veterans Magazine.

The State of Wisconsin is performing a service that is clearly the obligation of the VA. These are Federal benefits that we owe to our veterans and it is the Federal Government's responsibility to make sure that they receive them. The VA has a statutory obligation to perform outreach, and current budget pressures should not be used as an excuse to halt or reduce these efforts.

The legislation that I am introducing today was spurred by the overwhelming response to the WDVA's ''I Owe You'' program and the supermarkets of veterans benefits. If more than 11,000 Wisconsin veterans are unaware of benefits that may be owed to them, it is troubling to think how many veterans around our country are also unaware of them. We can and should do better for our veterans, who selflessly served our country and protected the freedoms that we all cherish. And it is important to address gaps in the VA's outreach program as we welcome home and prepare to enroll into the VA system the tens of thousands of dedicated military personnel who are serving in Afghanistan, Iraq, and other places around the globe.

In order to help to facilitate consistent implementation of VA's outreach responsibilities around the country, my bill would create a statutory definition of the term ''outreach.''

My bill also would help to improve outreach activities performed by the VA in three ways. First, it would create separate funding line items for outreach activities within the budgets of the VA and its agencies, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration. Currently funding for outreach is taken from the general operating expenses for these agencies. These important programs should have a dedicated funding source instead of being forced to compete for scarce funding with other crucial VA programs.

I have long supported efforts adequately fund VA programs. We can and should do more to provide the funding necessary to ensure that our brave veterans are getting the health care and other benefits that they have earned in a timely manner and without having to travel long distances or wait more than a year to see a doctor or to have a claim processed.

Secondly, the bill would create an intra-agency structure to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. By working more closely together, the VA components would be able to consolidate their efforts, share proven outreach mechanisms, and avoid duplication of effort that could waste scarce funding.

Finally, the bill would ensure that the VA can enter into cooperative agreements with State Departments of Veterans Affairs regarding outreach activities and would give the VA grant-making authority to award funds to State Departments of Veterans Affairs for outreach activities such as the WDVA's ''I Owe You Program.'' Grants that are awarded to State departments under this program could be used to enhance outreach activities and to improve activities relating to veterans claims processing, which is a key component of the VA benefits process. State departments that receive grants under this program may choose to award portions of their grants to local governments, other public entities, or private or non-profit organizations that engage in veterans outreach activities.

I am pleased that this bill has the support of a number of national and Wisconsin organizations that are committed to improving the lives of our Nation's veterans, including: Disabled American Veterans; Paralyzed Veterans of America; Vietnam Veterans of America; the National Association of County Veterans Service Officers; the National Association of State Directors of Veterans Affairs; the Wisconsin Department of Veterans Affairs; the Wisconsin Association of County Veterans Service Officers; the Wisconsin Department of Disabled American Veterans; the Wisconsin Department of Veterans of Foreign Wars; the Wisconsin Paralyzed Veterans Association; and the Wisconsin State Council, Vietnam Veterans of America.

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

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

S. 1199

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Outreach Improvement Act of 2003''.

SEC. 2. DEFINITION OF OUTREACH.

Section 101 of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(34) The term 'outreach' means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws.''.

SEC. 3. AUTHORITIES AND REQUIREMENTS FOR ENHANCEMENT OF OUTREACH OF ACTIVITIES DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 5 of title 38, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER IV—OUTREACH

''§ 561. Outreach activities: funding

''(a) The Secretary shall establish a separate account for the funding of the outreach activities of the Department, and shall establish within such account a separate subaccount for the funding of the outreach activities of each element of the Department specified in subsection (c).

''(b) In the budget justification materials submitted to Congress in support of the Department budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary shall include a separate statement of the amount requested for such fiscal year for activities as follows:

''(1) For outreach activities of the Department in aggregate.

''(2) For outreach activities of each element of the Department specified in subsection (c).

''(c) The elements of the Department specified in this subsection are as follows:

''(1) The Veterans Health Administration.

''(2) The Veterans Benefits Administration.

''(3) The National Cemetery Administration.

''§ 562. Outreach activities: coordination of activities within Department

''(a) The Secretary shall establish and maintain procedures for ensuring the effective coordination of the outreach activities of the Department between and among the following:

''(1) The Office of the Secretary.

''(2) The Office of Public Affairs.

''(3) The Veterans Health Administration.

''(4) The Veterans Benefits Administration.

''(5) The National Cemetery Administration.

''(b) The Secretary shall—

''(1) periodically review the procedures maintained under subsection (a) for the purpose of ensuring that such procedures meet the requirement in that subsection; and

''(2) make such modifications to such procedures as the Secretary considers appropriate in light of such review in order to better achieve that purpose.

''§ 563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach

''(a) It is the purpose of this section to assist States in carrying out programs that offer a high probability of improving outreach and assistance to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive veterans' or veterans'-related benefits, to ensure that such individuals are fully informed about, and assisted in applying for, any veterans' and veterans'-related benefits and programs (including under State veterans' programs).

''(b) The Secretary shall ensure that outreach and assistance is provided under programs referred to in subsection (a) in locations proximate to populations of veterans and other individuals referred to in that subsection, as determined utilizing criteria for determining the proximity of such populations to veterans health care services.

''(c) The Secretary may enter into cooperative agreements and arrangements with veterans agencies of the States in order to carry out, coordinate, improve, or otherwise enhance outreach by the Department and the States (including outreach with respect to State veterans' programs).

''(d)(1) The Secretary may award grants to veterans agencies of States in order to achieve purposes as follows:

''(A) To carry out, coordinate, improve, or otherwise enhance outreach, including activities pursuant to cooperative agreements and arrangements under subsection (c).

''(B) To carry out, coordinate, improve, or otherwise enhance activities to assist in the development and submittal of claims for veterans' and veterans'-related benefits, including activities pursuant to cooperative agreements and arrangements under subsection (c).

''(2) A veterans agency of a State receiving a grant under this subsection may use the grant amount for purposes described in paragraph (1) or award all or any portion of such grant amount to local governments in such State, other public entities in such State, or private non-profit organizations in such State for such purposes.

''(e) Amounts available for the Department for outreach in the account under section 561 of this title shall be available for activities under this section, including grants under subsection (d).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new items

''SUBCHAPTER IV—OUTREACH

''561. Outreach activities: funding.

''562. Outreach activities: coordination of activities within Department.

''563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach.''.

By Mr. GRAHAM of South Carolina (for himself, Mr. DORGAN, Mr. BUNNING, Mr. DURBIN, Mr. ROBERTS, Mrs. MURRAY, Mr. SMITH, Ms. LANDRIEU, Mr. DEWINE, Mr. CORZINE, Mr. DASCHLE, and Mrs. LINCOLN):

S. 1201. A bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today I am happy to be joining my colleague Senator LINDSEY GRAHAM in introducing the YMCA Healthy Teen Act. Senator GRAHAM and I are introducing this bill along with Senators BUNNING, CORZINE, DASCHLE, DEWINE, DURBIN, LANDRIEU, LINCOLN, MURRAY, ROBERTS, and SMITH. This bipartisan legislation will address a critical issue for our Nation's future: the health of our children.

Unfortunately, there has been an alarming trend in recent years towards increased obesity in our Nation's youth. On average, America's young people spend 4 hours a day watching television, 1 and ½ hours a day listening to music, 30 minutes watching videos, and 20 minutes playing video games. Only 13 percent of students walk or bike to school. Only one State, Illinois, requires daily physical education in schools. The Surgeon General has reported that 13 percent of children and adolescents are overweight, more than double the number who were overweight in 1970.

We are rapidly becoming a country of the unfit, the inactive, and the unhealthy—and our young people are suffering the consequences of a sedentary lifestyle. If ignored, obesity in children leads to obesity in adulthood—and the numerous health problems that come with it including diabetes, heart disease, stroke, chronic obstructive pulmonary disease, and cancer. These five diseases alone account for more than two-thirds of all deaths in the United States, and caring for them comes at a tremendous cost to society—close to $117 billion annually.

On top of the need for increased physical activity and healthier lifestyles, the evidence is all around us that our young people today also need some extra care and support. Kids today face challenges and obstacles that I never dreamed about when I was growing up in Regent. Although recent promising evidence show that rates of smoking, drinking and the use of illegal drugs among 8th, 10th, and 12th graders fell simultaneously in 2002, still half of all high school seniors have reported using illicit drugs at least once in their lifetime.

These challenges arise in part from the temptations kids face when they have too much idle time on their own. Every day, millions of American teens are left unsupervised after school. Studies have shown that teens left unsupervised during those hours are more likely to smoke, drink alcohol, engage in sexual activity, and become involved in delinquent behavior than teens who participate in structured, supervised afterschool activities. Also, nearly 80 percent of teens who are involved in afterschool activities are A or B students, while only half of those who are not involved earn those grades.

To address these crucial issues facing America's youth, I propose we turn to an exemplary organization dedicated to improving kids' lives, the YMCA. Nearly 2.4 million teenagers—1 out of every 10—are involved in a program offered by their local YMCA. In 2001, total membership rolls reached their highest level in history, with 18.3 million men, women, and children—half of them under 18—receiving a vast range of services from their local YMCAs.

In the past year and a half, I visited three of the six YMCAs that serve

North Dakota teens. Through programs focused on education, healthy lifestyles, physical activity, leadership, and service learning, these North Dakota YMCAs helped 12,500 teens in my State develop character, build confidence, and become healthier within the last year alone.

I have seen firsthand what a difference a safe, structured, and healthy afterschool environment can make for our youth. In those communities in North Dakota and across the country, the YMCA is a place to learn, a place to play sports, a place to meet friends, and a place to simply shed the problems that youths face every day in school and at home and just have some fun. North Dakota teens embrace the countless opportunities presented to them at their YMCAs with enthusiasm, and I have no doubt they are not alone.

While the YMCA is national in scope, they are local in control and every program is designed and evaluated to meet the communities' unique needs. I am confident that this bill will help the YMCA to reach more teens and continue to provide successful solutions for our Nation's teens and families.

To serve more teens in need of healthier lifestyles and safe and structured afterschool programs, the YMCA has set the goal of doubling the number of teens served to one in five teens by 2005. This ambitious campaign is called the Teen Action Agenda.

The bill that Senator GRAHAM and I offer today provides funding to help the YMCA reach teens who need safe and structured activities that will promote physical activity and healthy lifestyles. This piece of legislation authorizes Federal appropriations of $20 million per year for fiscal years 2004 through 2008 for the YMCA to implement its Teen Action Agenda. This funding would in turn be distributed to local YMCAs that are located in all 50 States and the District of Columbia. Similar legislation was passed in the 105th Congress for the Boys and Girls Club and in the 106th Congress for the Police Athletic League to aid in their efforts to reach out to youth.

Each program funded through this initiative would include physical activity and nutritional education components, and could also focus on other health risks faced by teenage youths, such as tobacco, drugs, and risky behaviors that lead to injury and violence.

This bill will encourage public-private partnerships and leverage additional funding for teen programs. It contains a matching component that will be met by the YMCA through local and private support. The YMCA in 2001 raised $777 million in public contributions, double the annual contribution levels of a decade ago, and continues to grow and gain support from communities for its work. The matching component, along with the support the YMCA programs receive from national corporate sponsors, will turn $20 million in Federal funds into $50 million that will be invested in proven programs that serve teens who are most in need.

Adolescence is an opportune time to instill in children positive eating habits and exercise routines that will carry over into adulthood. The YMCA is an established and proven organization that is in the position to reach out and influence thousands of teenagers. This legislation is an opportunity for us to do something for the health of our Nation's teenagers, when they now face greater risks and challenges than ever before. Again, for the sake of our children's future, I urge my Senate colleagues to join Senator GRAHAM and me in cosponsoring this piece of legislation.

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

S. 1203. A bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, one of the great benefits of the revolution in information technology has been its effect on education. With the information superhighway and the number of online research and information sources it has made available, modern technology and higher education have become inseparable.

The notion of distance learning and the access it provides to students—especially those in rural areas—could use a little more support, however, so that is why I am introducing the Distance Learning and Online Education Act of 2003.

This legislation builds on principles already found in the Higher Education Act to help reach populations that have traditionally been excluded from attending institutions of higher education.

Wyoming is a very rural State. There is only one four year school in the entire State, and there are only seven community colleges. If you include the University of Wyoming's satellite campuses, that adds up to nine institutions of higher education in an area of nearly one hundred thousand square miles. By contrast, there are one hundred twenty nine institutions of higher education in the State of Massachusetts, which makes up an area roughly one tenth the size of Wyoming. In fact, the only State that has fewer institutions of higher education is Alaska.

Expanding access to higher education for our rural communities has been a challenge for many years. Now, the Internet has made it possible for prospective students in rural communities, far removed from the university campus, to attend college online. They may now spend their time studying, rather than commuting back and forth between school.

At present, the most significant barriers that distance learners and online education programs must face are those that were created by the Higher Education Act. Under current law, students attending institutions that enroll more than half of their students in distance programs are ineligible for Federal student financial assistance. As a result, many of the communities that this assistance is designed to reach have been excluded from sharing in its benefits, including students from rural communities, single mothers, working professionals, and a range of others who are interested in attending college but who cannot afford to do so.

The legislation that I introduce today corrects this problem by creating an avenue for online and distance educators to reach out to rural communities and non-traditional students by making them eligible for federal student assistance. It creates an eligibility standard for these institutions that helps to ensure they will provide high quality education programs, while it also protects Federal funding from fraud and abuse.

The Distance Learning and Online Education Act ensures students will receive a high quality education by requiring online educators to become accredited by an agency that has an appropriate focus on distance education. As provided under current law, the accrediting body must also be recognized by the Secretary of Education as an agency that can determine the institution's eligibility under Title IV of the Higher Education Act. This is a slightly higher standard than is expected of the brick and mortar institutions that have been entrusted with Title IV funding since the Higher Education Act was originally passed.

My bill will also protect against any fraud and abuse of Title VI funds by requiring distance educators to demonstrate their financial responsibility. In addition to meeting the default rates already established in current law, institutions interested in becoming eligible must also have a record free from audit findings or program review findings resulting in significant penalties for a period of at least two years. Distance learning institutions must also show that they have not had their participation in Title IV limited, suspended or terminated during the previous five years, and they must create a system of assurances that the student participating in the program is the individual completing the work.

It is clear that the shape of higher education in this country is changing and it will never be the same again. We have an opportunity, through technology, to reach student populations that have been excluded from participation in higher education because they cannot afford to attend or travel to classrooms or campuses located many miles from their homes. We can change part of the equation by changing the way we view those programs that hold the greatest promise for nontraditional students. Making them eligible for federal student assistance will go a long way toward making a higher education available to everyone with

the interest in learning and the determination to get the job done. The Distance Learning and Online Education Act of 2003 will provide a hand up—not a hand out—to those whose interest in a higher education is limited only by their resources. By offering them a helping hand we can eliminate that obstacle and help a new generation achieve their goals and live their dreams.

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. 1203

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 ''Distance Education and Online Learning Act of 2003''.

SEC. 2. STUDENT ELIGIBILITY.

Section 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''in whole or in part'' and inserting ''predominantly'';

(B) by striking ''of 1 year or longer''; and

(C) by striking ''unless'' and all that follows through ''all courses at the institution''; and

(2) by amending subparagraph (B) to read as follows:

''(B) REQUIREMENT.—An institution of higher education referred to in subparagraph (A) is an institution of higher education that is not an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.''.

SEC. 3. DEFINITION OF ELIGIBLE PROGRAM.

Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by adding at the end the following:

''(3)(A) A program that is offered predominantly through distance education methods and processes (other than correspondence courses) is an eligible program for purposes of this title if—

''(i) the program was reviewed and approved by an accrediting agency or association that—

''(I) is recognized by the Secretary under subpart 2 of part H; and

''(II) has evaluation of distance education programs within the scope of its recognition; and

''(ii) the institution offering the program—

''(I) has not had its participation in programs under this title limited, suspended, or terminated within the preceding 5 years;

''(II) has not had or failed to resolve an audit finding or program review finding under this Act during the preceding 2 years that resulted in the institution being required to repay an amount that is greater than 10 percent of the total funds the institution received under the programs authorized by this title for any award year covered by the audit or program review;

''(III) has not been found by the Secretary during the preceding 5 years to be in material noncompliance with the provisions of this Act related to the submission of acceptable and timely audit reports required under this title; and

''(IV) is determined to be financially responsible under regulations promulgated by the Secretary pursuant to section 498(c).

''(B) If the accreditation agency or association withdraws approval of the program described in subparagraph (A)(i) or the institution fails to meet any of the requirements described in subparagraph (A)(ii), then the program shall cease to be an eligible program at the end of the award year in which such withdrawal of approval or failure to meet such requirements occurs. The program shall not be an eligible program until the provisions of subparagraph (A) (i) and (ii) are met again.

''(4) The Secretary shall promulgate regulations for determining whether a program that offers a degree or certificate on the basis of a competency assessment, that examines the content of the course work provided by the institution of higher education, is an eligible program for purposes of this title.''.

SEC. 4. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.

Section 496 of the Higher Education Act of 1965 (20 U.S.C. 1099b) is amended—

(1) in subsection (n)(3), by striking the last sentence and inserting the following: ''If the agency or association requests that the evaluation of institutions offering distance education programs be included within its scope of recognition, and demonstrates that the agency or association meets the requirements of subsection (p), then the Secretary shall include the accreditation of institutions offering distance education programs within the agency's or association's scope of recognition.''; and

(2) by adding at the end the following:

''(p) DISTANCE EDUCATION PROGRAMS.—An agency or association that seeks to evaluate the quality of institutions offering distance education programs within its scope of recognition shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that the agency or association assesses—

''(1) measures of student achievement of students enrolled in distance education programs;

''(2) the preparation of faculty and students to participate in distance education programs;

''(3) the quality of interaction between faculty and students in distance education programs;

''(4) the availability of learning resources and support services for students in distance education programs; and

''(5) measures to ensure the integrity of student participation in distance education programs.''.

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

S. 1204. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Hunting Heritage Protection Act. With the introduction of this important legislation, we are able to acknowledge our Nation's rich heritage of hunting. The purpose of this bill is to pass that legacy on to future generations by protecting and preserving the rights of our Nation's sportsmen and women.

In 2001 over 13 million Americans contributed over $20.6 billion to the U.S. economy while hunting—a true recreational activity. Many believe that in order to hunt you must own land, but that is not true. I believe that hunting should be available as a recreational activity for everyone.

I have been an avid outdoor sportsman since my early adulthood. I am also an avid conservationist, like most other hunters. Mr. President, recreational hunting provides many opportunities to spend valuable time with children, just as I do with my son. He has been hunting since he was a young boy where he discovered and learned to appreciate one of the Earth's greatest treasures, nature.

Over the years, hunters have contributed billions of dollars to wildlife conservation, by purchasing licenses, permits, and stamps, as well as paying excise taxes on goods used by hunters. Since the time of President Teddy Roosevelt, father of the conservation movement, sportsmen and women have been and will continue to be some of the greatest supporters of sound wildlife management and conservation practices in the U.S.

Hunters need to be recognized for the vital role they play in conservation in this country. The Hunting Heritage Protection Act will do just that. This bill formalizes a policy by which the Federal Government will support, promote, and enhance recreational hunting opportunities, as permitted under State and Federal law. Further, the bill mandates that Federal public land and water are to be open to access and use for recreational hunting where and when appropriate. I should clarify and stress that this bill does not suggest that we open all national parks to hunting. As I mentioned, the goal is simple—I want recreational hunting on our public land to be available to the citizens of this country where and when appropriate.

It is crucial that the tradition of hunting is protected and that the valuable contributions that hunters have made to conservation in this country are recognized. And, we want to ensure that Federal land management decisions and their actions result in a 'no net loss of hunting opportunities'' on our public lands. This bill allows Congress to address this issue and to honor our Nation's sportsmen and women.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1205. A bill to provide discounted housing for teachers and other staff in rural areas of States with a population less than 1,000,000 and with a high population of Native Americans or Alaska Natives; to the Committee on Indian Affairs.

Mr. STEVENS. Mr. President, on behalf of Senator MURKOWSKI, I rise to introduce the Rural Teacher Housing Act of 2003.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will have a profound effect on the retention of good teachers, administrators, and other school staff in remote and rural areas of Alaska and in the rest of our Nation.

In rural areas of Alaska, school districts face the challenge of recruiting and retaining teachers, administrators and other school staff due to the lack of affordable housing. In one school district, they hire one teacher for every

six who decide not to accept job offers. Half of the applicants not accepting a teaching position in that district indicated that their decision was related to the lack of housing options.

Recently, I traveled throughout rural Alaska with Education Secretary Rod Paige. I wanted him to see the challenges of educating children in such a remote and rural environment. At one rural school, the principal must sleep in his office due to the lack of housing in that village. In the same village, there is not enough housing for each teacher to have their own separate home—several teachers must share a single home. Therefore, there is not enough room for the teachers' spouses.

Rural Alaskan school districts also experience a high annual rate of teacher turnover due to the dearth of affordable housing. Apparently, up to 30 percent of teachers leave rural school districts due to housing issues. How can we expect our children to thrive and to meet the mandates of the No Child Left Behind Act in such an educational environment? Clearly, the lack of affordable teacher housing in rural Alaska is an issue that needs to be addressed in order to ensure that children in rural Alaska receive an educational experience that is second to none and is also respectful of cultural differences.

My bill authorizes the Department of Housing and Urban Development to provide funds to States to address the shortage of teacher housing in rural areas in Alaska and in the rest of our Nation. Specifically, my bill provides funds to States that have a population of 1 million or fewer people and include qualifying municipalities, which have populations of 6,500 or fewer people and also do not have direct access to either a State or interstate highway system. The appropriate state housing authority will accept such funds and will then transfer the funds to an eligible school district in a qualifying municipality. An eligible school district must be within the boundaries of an Indian reservation, one or more Alaska Native villages or land owned by one or more Alaska Native village corporations. This legislation will allow the eligible school districts to address the housing shortage in the following ways: construct housing units, purchase and rehabilitate existing housing units, or rehabilitate housing units that are already owned by a school district. Once this phase is complete, eligible school districts shall provide the housing to teachers or other school staff under terms agreed upon by the school district and the teacher or other staff.

It is imperative that we address this important issue immediately and allow the flexibility for the disbursement of funds to be handled at the local level. The quality of education of our rural children is at stake.

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. 1205

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

SECTION 1. SHORT TITLE.

The Act may be cited as the ''Rural Teacher Housing Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELEMENTARY SCHOOL.—The term ''elementary school'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE SCHOOL DISTRICT.—The term ''eligible school district'' means a school district located within a qualified municipality within an eligible State and is within the boundaries of—

(A) Indian lands;

(B) 1 or more Native villages; or

(C) land owned by 1 or more Village Corporations.

(3) ELIGIBLE STATE.—The term ''eligible State'' means any State having a population of fewer than 1,000,000 people, based upon the most recent Government census.

(4) INDIAN LANDS.—The term ''Indian lands'' has the meaning given that term in section 2103 of the Revised Statutes (25 U.S.C. 81).

(5) NATIVE VILLAGE.—The term ''Native village'' has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C 1602).

(6) OTHER STAFF.—The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(7) QUALIFIED MUNICIPALITY.—The term ''qualified municipality'' means a municipality or unorganized borough within an eligible State—

(A) that has a total population of 6,500 or fewer people, based upon the most recent Government census; and

(B) does not have direct access to either a State or interstate highway system.

(8) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(10) TEACHER.—The term ''teacher'' means an individual who is employed as a teacher in a public elementary or secondary school, and meets the certification or licensure requirements of the eligible State.

(11) VILLAGE CORPORATION.—The term ''Village Corporation'' has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C. 1602).

SEC. 3. RURAL TEACHER HOUSING PROGRAM.

(a) GRANTS AUTHORIZED.—The Secretary shall provide funds to eligible States, in accordance with such procedures as the Secretary determines are appropriate, to be used as provided in subsection (b).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds received pursuant to subsection (a) shall be used by the eligible State to make grants to eligible school districts to be used as provided in paragraph (2).

(2) USE OF FUNDS BY ELIGIBLE SCHOOL DISTRICTS.—Grants received by an eligible school district pursuant to paragraph (1) shall be used for—

(A) the construction of new housing units within a qualified municipality;

(B) the purchase and rehabilitation of existing housing units within a qualified municipality; or

(C) the rehabilitation of housing units within a qualified municipality that are owned by an eligible school district.

(c) OWNERSHIP OF HOUSING.—All housing units constructed or purchased with grant funds awarded under this Act shall be owned by the relevant eligible school district.

(d) OCCUPANCY OF HOUSING UNITS.—Each housing unit constructed, purchased, or rehabilitated with grant funds under this Act shall be provided to teachers or other staff who are employed by the public school district in which the housing unit is located, under terms agreed upon by the eligible school district and the teacher or other staff

(e) COMPLIANCE WITH BUILDING CODES.—Each eligible school district receiving a grant under this Act shall ensure that all housing units leased pursuant to subsection (d) meet all applicable State and local building codes.

(f) MATCHING REQUIREMENT.—Each State that receives Federal funds under this Act shall provide matching funds from non-Federal sources in an amount equal to 20 percent of such Federal funds.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Housing and Urban Development $50,000,000 for each of the fiscal years 2004 through 2013 to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 160—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD ACTIVELY PURSUE A UNIFIED APPROACH TO STRENGTHEN AND PROMOTE THE NATIONAL POLICY ON AQUACULTURE

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 160

Whereas the Food and Agriculture Organization of the United Nations determined that aquaculture is the fastest growing food sector that provides animal protein for citizens of the world;

Whereas global aquacultural production (including the production of aquatic plants) has increased at an average rate of 9.2 percent per year since 1970, compared with only 1.4 percent for capture fisheries and 2.8 percent for terrestrial-farmed meat production systems;

Whereas freshwater aquacultural production increased from 15,900,000 metric tons in 1996 to 22,600,000 metric tons in 2001, marine aquacultural production increased from 10,800,000 metric tons in 1996 to 15,200,000 metric tons in 2001, and total aquacultural production increased from 26,700,000 metric tons in 1996 to 37,800,000 metric tons in 2001;

Whereas economic modeling predicts that global annual consumption of fish and shellfish per person will increase over time, from about 16 kilograms today to between 19 and 21 kilograms in 2030, due to increased health consciousness and the stronger demand for seafood products;

Whereas the United States imports more than 60 percent of its seafood products, resulting in an annual seafood trade deficit in excess of $7,000,000,000; and

Whereas section 7109 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 436) reauthorized the National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) until 2007, but did not adequately address emerging national issues