(Mr. COCHRAN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Res. 99, a resolution supporting the goals and ideals of the Olympics.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

AMENDMENT NO. 814

At the request of Mr. SANTORUM, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 814 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 826

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of amendment No. 826 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 827

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 827 intended to be proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, and Mr. DOMENICI):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to promote the future economic vitality of the communities in Union and Colfax Counties, and throughout Northeast New Mexico. Our bill designates the route for New Mexico's section of the Ports-to-Plains High Priority Corridor, which runs 1000 miles from Laredo, Texas, to Denver, Colorado. I am pleased to have my colleague, Senator DOMENICI, as a cosponsor.

I am certain every senator recognizes the importance of basic transportation infrastructure to economic development in their State. Roads and airports link a region to the world economy.

In New Mexico, it is well known that regions with four-lane highways and economical commercial air service will most readily attract new jobs. I have long pressed at the Federal level to ensure our communities have the roads and airports they need for their long-term economic health. That is why this bill I am introducing today is so important. With the passage of NAFTA, the Ports-to-Plains corridor is centrally situated to serve international trade and promote economic development along its entire route.

In 1998 Congress identified the corridor from the border with Mexico to Denver, CO, as a High Priority Corridor on the National Highway System. Last year, a comprehensive study was undertaken to determine the feasibility of creating a continuous four-lane highway along the corridor. Alternative highway alignments for the trade corridor were also developed and evaluated. The study was conducted under the direction of a steering committee consisting of the State departments of transportation in Texas, New Mexico, Oklahoma, and Colorado.

It is important to note that public input was an important facet at every stage of the study. The steering committee sponsored public meetings in May of last year in Clayton, NM, and five other locations along the corridor. A final series of seven public meetings was held this year. I note that the level of public interest and participation was highest in New Mexico. Over 600 citizens attended the public meeting in Raton, NM, on March 6, 2001, while a total of only 700 people attended all six of the other public meetings in Texas, Oklahoma, and Colorado clearly demonstrating the importance of this trade corridor designation to Northeast New Mexico. A final report has just been prepared and a summary can be found on the web at www.wilbursmith.com/portstoplains.

The study evaluated two routes for the trade corridor between Amarillo, TX, and Denver, CO. One route ran along U.S. Highway 64/87 between Clayton and Raton, NM. The other followed U.S. Highway 287, bypassing New Mexico. The feasibility study found that either route between Amarillo and Denver would result in favorable conditions. However, the alignment through New Mexico, from Clayton to Raton, along U.S. Highway 64/87, was dramatically more favorable than the alternative in terms of travel efficiency, benefits and feasibility, including travel time savings and accident cost reduction. In particular:

The benefit-to-cost ratio of the New Mexico route was 75 percent better than for the route bypassing New Mexico.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

Two thirds of the New Mexico alignment is already four lanes wide or is soon slated to be widened to four lanes, compared to only one-third of the alternative alignment.

The alternative would require acquisition of more than twice the right-of-way and would displace nearly three times more residential and commercial facilities.

The New Mexico alignment would serve a population of nearly 2 million persons, compared to 1.5 million for the alternative.

Finally, the construction costs of the New Mexico alignment are $175 million less than the route bypassing New Mexico.

The alternative route had a very slight advantage over the New Mexico alignment only in economic development benefits.

With the feasibility study results now complete, The New Mexico Highway Commission last week voted unanimously to support the designation New Mexico's portion of the Ports-to-Plains Trade High Priority Corridor along U.S. Highway 64/87 between Clayton and Raton. The designated route connects into Texas along Highway 87 to Dumas, and to Denver along Interstate 25.

Very simply, this bill advances the same goal, to designate the route between Clayton and Raton in New Mexico as part of the Ports-to-Plains Corridor. As the huge turnout for the public meeting in Raton in March clearly demonstrates, there is overwhelming public support for this route throughout Union and Colfax Counties in New Mexico. There is also very strong support in neighboring Las Animas and Pueblo Counties in Colorado, including the cities of Trinidad and Pueblo.

In Texas, the state already plans to widen to four lanes its portion of the route between Dumas and the New Mexico state line. In New Mexico, the Citizens' Highway Assessment Task Force identified the route between Clayton and Raton as a priority to upgrade to four lanes. The initial needs and purposes study for the project is currently listed in New Mexico's five-year Statewide Transportation Improvement Study, STIP.

In addition to possible routes north of Amarillo, TX, I should also note that the feasibility study considered a variety of alternative routes south of Amarillo, on down to Laredo. However, Congress already indicated its preferred southern leg in the Omnibus Appropriations Act of 2001, though the

Congressional designation of the southern route was enacted long before we had the results of the feasibility study. The Texas Transportation Commission is voting today to confirm Congress' designation of the southern leg.

The studies have now been completed. The results are in. The route south of Amarillo has been set. Congress should now complete the designation of the final leg of the Ports-to-Plains Trade Corridor by passing our bill.

The time to act is now. Once the route is established the States can move forward with their regional and statewide transportation plans, environmental studies, design work, acquisition of rights of way, and initial construction of the most critical segments.

I thank Senator DOMENICI for cosponsoring the bill, and I hope all senators will join us in support of this important legislation.

I ask unanimous consent that a copy of the New Mexico State Highway Commission's resolution and the text of the bill be printed in the RECORD.

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

S. 1118

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

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES IN NEW MEXICO AND COLORADO.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 114 Stat. 2763A–201) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(2) by redesignating subparagraph (A) as clause (i);

(3) by striking ''(38) The'' and inserting ''(38)(A) The'';

(4) in subparagraph (A) (as designated by paragraph (3))—

(A) in clause (i) (as redesignated by paragraph (2))—

(i) in subclause (VII) (as redesignated by paragraph (1)), by striking ''and'' at the end;

(ii) in subclause (VIII) (as redesignated by paragraph (1)), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(IX) United States Route 87 from Dumas to the border between the States of Texas and New Mexico.''; and

(B) by adding at the end the following:

''(ii) In the States of New Mexico and Colorado, the Ports-to-Plains Corridor shall generally follow—

''(I) United States Route 87 from the border between the States of Texas and New Mexico to Raton, New Mexico; and

''(II) Interstate Route 25 from Raton, New Mexico, to Denver, Colorado.''; and

(5) by striking ''(B) The corridor designation contained in paragraph (A)'' and inserting the following:

''(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i)''.

STATE OF NEW MEXICO, STATE HIGHWAY COMMISSION, RESOLUTION NO 2001–3 (JUN)

Whereas, in the Transportation Equity Act for the 21st Century (Public Law 105–178, Section 1211) Congress designated the Ports to Plains Corridor (Corridor), from the Mexican border via I–27 (in Texas) to Denver, Colorado, as one of 43 High Priority Corridors to integrate regions and to improve the efficiency and safety of commerce and travel and to promote economic development; and

Whereas, the Texas Department of Transportation has identified the highways in Texas that it will recommend to the Federal Highway Administration be part of the Corridor from Laredo to Dumas, but has deferred to the States of New Mexico, Oklahoma, and Colorado to reach a consensus on the recommendation of highways to complete the Corridor from Dumas to Denver; and

Whereas, a feasibility study (Study) under the direction of a steering committee made up of representatives of the affected states, has identified two alternatives to complete the Corridor from Amarillo to Denver. The first alternative designated N1, goes from Amarillo (following U.S. 287) to Dumas, Texas, then follows U.S. 87 and U.S. 64/87 from Dumas, through Clayton, New Mexico, to Raton, New Mexico, and then continues to Denver following I–25 through Trinidad, Pueblo, and Colorado Springs, Colorado. The second alternative, designated N4, bypasses New Mexico by following U.S. 287 through Boise City, Oklahoma to Lamar and Limon, Colorado and then follows I–70 to Denver; and

Whereas, the public participation process of the Study reflects overwhelming support in the communities and related areas of Clayton, Raton, Trinidad, and Pueblo for the N1 alternative; and

Whereas, the N1 alternative will better serve the intent of Congress in creating the High Priority Corridor program because it will integrate more regional population centers and provide greater opportunities for economic development than the N4 alternative, which bypasses these population centers and thus limits the potential for economic development; and

Whereas, the N4 alternative will cost more to construct than the N1 alternative because the N4 alternative will require the construction of more new four land highway, including the cost of right of way acquisition; and

Whereas, portions of I–25 in alternative N1 from Denver to Colorado Springs are being improved and need additional improvements to better serve current needs and this Commission understands that a bypass on the Interstate Highway System for Colorado Springs is in conceptual plans of the Colorado Department of Transportation: Now, therefore it is

Resolved by the State Highway Commission, That it supports the N1 alternative to bring the Ports to Plains Corridor through New Mexico on U.S. 64/87, including upgrading U.S. 64/87 in New Mexico to a four-lane highway, in order to achieve the intent of Congress in the High Priority Corridor program to integrate regional population centers and provide opportunities for economic development; and it is further

Resolved, That the State Highway Commission supports additional federal funding for improvements to I–25 in Colorado and a bypass of Colorado Springs if that plan is adopted by the Colorado Department of Transportation; and it is further

Resolved, That a copy of this Resolution be provided to the Ports to Plains Project Steering Committee and feasibility study consultant, the Texas, Oklahoma, and Colorado Departments of Transportation, the Federal Highway Administration, New Mexico, Division, the governing bodies of the municipalities of Trinidad, Pueblo, and Colorado Springs, Colorado, Clayton, Des Moines, Raton, Springer, Cimarron, Eagle Nest, Angel Fire, Taos, Questa, and Red River, New Mexico and Union, Colfax, and Taos Counties, New Mexico, the New Mexico Municipal League, the New Mexico Association of Counties, all members of the New Mexico Congressional delegation, and all members of the New Mexico Legislative leadership.

Adopted in open meeting by the State Highway Commission on June 21, 2001.

Mr. DOMENICI. Mr. President, I rise today to support the Ports-to-Plains NAFTA corridor designation through New Mexico, along U.S. Highway 64/87 from Clayton to Raton.

From the beginning, I have vigorously supported the proposed route through New Mexico. In fact, while a member of the Senate Appropriations Subcommittee on Transportation, I worked to make the proposed route through New Mexico a possibility.

Further, representatives from my office attended a public comment meeting on the route in Raton, New Mexico in March 2001. I thought it important that the more than three hundred New Mexicans in attendance know that I was behind them.

I have supported the route from the beginning because I knew that it would be good for the people of my state and good for the country.

The conclusions of the feasibility study give clear and convincing evidence supporting what I had suspected all along. The route through New Mexico, known as the N–1 route, is the best choice.

In order to demonstrate that a particular infrastructure best meets the public interest over another, one must consider a host of factors.

Those factors include considering the public's preferences, the cost of the competing projects, and the relative efficiency of implementing each project.

The feasibility study concluded that the Ports-to-Plain route best meets this criteria.

The traveling public overwhelmingly prefers the route through New Mexico, which carries 28,000 vehicles per day. The competing proposal only has traffic flows of 11,000 vehicles each day.

The N–1 route through New Mexico represents the best deal for the taxpayer since it costs $175 million less than the competing route.

Last, the route through New Mexico would be the most efficient to implement since sixty-seven percent of the highway has already been programmed for four-lane expansion. The competing route has only programmed thirty-seven percent of the road for crucial four-lane improvements.

Furthermore, the State of New Mexico is committed to securing the Ports-to-Plains designation. Evidencing that commitment, the State's Highway Commission recently passed a resolution supporting the Ports-to Plains designation from Dumas, Texas to Raton, New Mexico.

I pledge to continue working to ensure that the Ports-to-Plains corridor is designated through New Mexico. The route through Raton, New Mexico is the most efficient and cost effective

option for the U.S. taxpayer, furthers the interest of the people of my State, and is supported by the State government.

By Mr. LEAHY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I rise today to introduce important legislation that will impact the health and readiness of the Selected Reserve. The Selected Reserves includes over 900,000 dedicated men and women divided between the National Guard and the Reserves. Over the past ten years, this force has become increasingly critical to carrying out our Nation's defense, whether deploying to far-flung regions of the globe or backfilling for other units making those deployments.

The country simply cannot meet its commitments without these proud citizen-soldiers. It follows, then, that steps to increase the readiness of the Selected Reserves will have a positive effect on the readiness of the entire force. It was this goal in mind that I introduce the Health Care for Selected Reserve Act.

This legislation will ensure that all members of the drilling reserves have adequate health insurance. The legislation acknowledges our reserves' continuing contributions to the defense of the Nation and expresses the need for full medical coverage. The legislation will commission an independent study on the extent of insurance shortfalls and examine the feasibility of extending the TRICARE or FEHBP program to the reserves.

Currently, when a member of the Selected Reserve goes on active duty over 60 days, they are provided full coverage under the TRICARE Prime program conducted through the active military's medical treatment facilities. But when reservists are not on active duty, they are left to gain insurance through their civilian employers. Like the rest of society, most gain adequate coverage through their employers like the rest of society, but, mirroring broader shortfalls in the wider population, many go without any health coverage at all. This shortfall has an even more noticeable affect on the country because it affects military readiness.

There is also an underlying issue of fairness here. It seems wrong to me that one week someone can be patrolling the skies over Iraq with full coverage and the next week they can have no health coverage at all. That situation gives the impression that the National Guard and the Reserves are the poorly-paid subcontractor to the active duty force. If we really believe in the idea of the Total Force, we cannot let these health coverage shortfalls exist.

I want to thank the other sponsors of this bill for helping me craft this bill. Senators DEWINE, DASCHLE, COCHRAN, CARNAHAN, SNOWE, and JOHNSON are deeply interested in this issue, and I look forward to working with them to develop a set of concrete steps to meet this problem. I urge the legislation's adoption.

Mr. President, I ask unanimous consent that the full 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. 1119

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Selected Reserve of the Ready Reserve of the Armed Forces is the element of the Armed Forces of the United States that has the capability quickly to augment the active duty forces of the Armed Forces successfully in times of crisis.

(2) The Selected Reserve has been assigned increasingly critical levels of responsibility for carrying out the worldwide military missions of the Armed Forces since the end of the Cold War.

(3) Members of the Selected Reserve have served proudly as mobilized forces in numerous theaters from Europe to the Pacific and South America, indeed, around the world.

(4) The active duty forces of the Armed Forces cannot successfully perform all of the national security missions of the Armed Forces without augmentation by the Selected Reserve.

(5) The high and increasing tempo of activity of the Selected Reserve causes turbulence in the relationships of members of the Selected Reserve with their families, employers, and reserve units.

(6) The turbulence often results from lengthy, sometimes year-long, absences of the members of the Selected Reserve from their families and their civilian jobs in the performance of military duties necessary for the execution of essential missions.

(7) Family turbulence includes the difficulties associated with vacillation between coverage of members' families for health care under civilian health benefits plans and coverage under the military health benefits options.

(8) Up to 200,000 members of the Selected Reserve, including, in particular, self-employed members, do not have adequate health benefits.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that steps should be taken to ensure that every member of the Selected Reserve of the Ready Reserve of the Armed Forces and the member's family have health care benefits that are adequate—

(1) to ease the transition of the member from civilian life to full-time military life during a mobilization of reserve forces;

(2) to minimize the adverse effects of a mobilization on the member's ability to provide for the member's family to have ready access to adequate health care; and

(3) to improve readiness and retention in the Selected Reserve.

SEC. 3. STUDY OF HEALTH CARE BENEFITS COVERAGE FOR MEMBERS OF THE SELECTED RESERVE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to carry out a study of the needs of members of the Selected Reserve of the Ready Reserve of the Armed Forces and their families for health care benefits.

(b) REPORT.—(1) Not later than March 1, 2002, the Secretary shall submit a report on the results of the study to Congress.

(2) The report shall include the following matters:

(A) Descriptions, and an analysis, of how members of the Selected Reserve and their dependents currently obtain coverage for health care benefits, together with statistics on enrollments in health care benefits plans.

(B) The percentage of members of the Selected Reserve, and dependents of such members, who are not covered by any health insurance or other health benefits plan, together with the reasons for the lack of coverage.

(C) Descriptions of the disruptions in health benefits coverage that a mobilization of members of the Selected Reserve causes for the members and their families.

(D) At least three recommended options for cost-effectively preventing or reducing the disruptions by means of extending health care benefits under the Defense Health Program or the Federal Employees Health Benefits program to all members of the Selected Reserve and their families, together with an estimate of the costs of individual coverage and family coverage under each option.

(E) A profile of the health status of members of the Selected Reserve and their dependents, together with a discussion of how that profile would affect the cost of providing adequate health benefits coverage for that population of beneficiaries.

(F) An analysis of the likely effects that providing enhanced health benefits coverage to members of the Selected Reserve and their families would have on recruitment and retention for, and the readiness of, the Selected Reserve.

(3) In formulating the options to recommend under paragraph (2)(D), the Secretary shall consider an expansion of the TRICARE program or the Federal Employees Health Benefits program to cover the members of the Selected Reserve and their families.

Mr. DASCHLE. Mr. President, today I join with several important leaders of the Senate's National Guard Caucus to introduce S. 1119, which we believe will one day result in improved health care for Guard and Reserve members and their families.

It is appropriate that we introduce this now, during a week in which Senate floor debate has focused almost exclusively on health care, with several lively discussions about the importance of expanding health coverage to the uninsured.

Unfortunately, Guard members and leaders in South Dakota tell me that many of the uninsured serve in the National Guard. Many of them work for small businesses that cannot afford to offer health insurance to their employees. Some of them have insurance for themselves, but cannot afford to insure their dependents.

Meanwhile, this Nation is utilizing the Guard more heavily than at any other time in our Nation's history. During the Cold War, a Guard member

might serve and retire without ever being called to active duty. Staring with the Persian Gulf War and continuing to this day in Bosnia, Kosovo and Iraq, reservists are serving alongside the active duty military during deployments that can last 6 months or more.

Each of these deployments strains the Guard member's employer, who temporarily gives up a valued employee. And it strains individual soldiers and their families, even if they have health insurance, because employer-provided coverage often lapses during periods of active duty.

The premise of our bill is that health coverage can help the Guard attract and retain top-flight personnel and also improve readiness; that it can help service members and their families, especially in coping with mobilization; and that it can relieve some of the burdens faced today by National Guard employers, particularly small businesses.

This bill lays the groundwork for a solution. S. 1119 would authorize a study by a non-government research center to explore the extent of the problem and recommend at least three cost-effective solutions, including the possibility of opening the TRICARE program or the Federal Employees Health Benefits Program to reservists and their families. The study would look at disruptions to health coverage caused by mobilizations and analyze the likely impact of enhanced health care on recruitment and retention.

We have developed this bill in consultation with the Military Coalition and several of its members. I appreciate their concern for this problem and their work to help develop a solution. In this regard, I would particularly like to acknowledge the role of the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, and the Retired Officers Association.

I hope and believe that today's bill introduction can be an important step toward providing adequate health care for members of the South Dakota National Guard and other reservists around the Nation, who do so much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV–AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease.

I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in introducing this bill. Last year, we teamed up to offer the Global AIDS Prevention Act that doubled funding for the United States Agency for International Development's HIV–AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year's success by again doubling the amount USAID spends on fighting the global HIV–AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV–AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, Russia, and all places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million more are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious epidemic in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they would have had ten years ago. Unfortunately, these efforts are not reaching the Nations whose people need help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check. With this funding authorization, the USAID will be able to provide more for the most vulnerable constituencies, children and young adults. The money will be used for drugs like neviropine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children.

The United States is a trendsetter in efforts to address the pandemic of HIV–AIDS. Through the work of USAID, we have instituted prevention, care, and treatment programs in some of the hardest-hit countries in sub-Saharan Africa. The Centers for Disease Control and Prevention has worked with partners in other countries to expand treatment programs. Other agencies such as the Department of Labor, the Department of Agriculture and the Department of Defense are contributing to the effort to end the spread of AIDS. But far more remains to be done.

I urge my colleagues to support this measure and 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. 1120

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 ''Global AIDS Research and Relief Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term ''Association'' means the International Development Association.

(3) BANK.—The term ''Bank'' or ''World Bank'' means the International Bank for Reconstruction and Development.

(4) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen, which causes AIDS.

(5) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 3. FINDINGS AND PURPOSES.

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

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300s and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 36,100,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 15 and under worldwide, more than 4,300,000 have died from AIDS, more than 1,400,000 are living with the disease; and in 1 year alone—2000—an estimated 600,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 25,300,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 21,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(7) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(8) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs $4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African, and Latin American countries to reduce mother-to-child transmission (also known as ''vertical transmission'') of HIV.

(9) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(10) A mother-to-child antiretroviral drug strategy can be a force for social change, providing the opportunity and impetus needed to address often longstanding problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery, and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just 2 years in the former Soviet Union.

(13) Russia is the new ''hot spot'' for the pandemic and more Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population, which is potentially susceptible.

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

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

SEC. 3. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

Paragraphs (4) through (6) of section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) are amended to read as follows:

''(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immune deficiency syndrome (AIDS) epidemic.

''(B) The agency primarily responsible for administering this part shall—

''(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, other organizations, and other Federal agencies to develop and implement effective strategies to prevent vertical transmission of HIV; and

''(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

''(5)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

''(B) Assistance described in subparagraph (A) shall include help providing—

''(i) primary prevention and education;

''(ii) voluntary testing and counseling;

''(iii) medications to prevent the transmission of HIV from mother to child;

''(iv) programs to strengthen and broaden health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those afflicted with HIV/AIDS; and

''(v) care for those living with HIV or AIDS.

''(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $600,000,000 for each of the fiscal years 2002 and 2003 to carry out paragraphs (4) and (5).

''(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign nongovernmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

''(C)(i) Of the funds authorized to be appropriated by subparagraph (A), priority should be given to programs that address the support and education of orphans in sub-Saharan Africa, including AIDS orphans and prevention strategies for vertical transmission referred to in paragraph (4)(A).

''(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

''(D) Of the funds authorized to be appropriated by subparagraph (A), not more than 7 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

''(E) Funds appropriated under this paragraph are authorized to remain available until expended.''.

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague Senator BOXER to introduce the ''Global AIDS Research and Relief Act of 2001.'' This important legislation increases the authorization for USAID to carry out its prevention, treatment and care programs to $600 million for fiscal years 2002 and 2003. These additional resources will help prevent human suffering through the prevention, diagnosis and treatment of HIV/AIDS.

The world is facing a global health problem of disastrous proportions in the global HIV/AIDS pandemic. In the past year, this issue has received much needed attention from the international community and the U.S. Government. But, unfortunately, our efforts and the efforts of other governments, the private sector, and foundations have not been enough and the pandemic continues to wreak havoc on the lives of millions of people around the world. The United States plays a key role in the global effort and our bill seeks to strengthen those efforts.

Over 58 million people have already been infected with HIV/AIDS and 36 million people are living today with HIV/AIDS. Of those living with the disease, over 95 percent live in the developing world where the economic and social structures in those countries are being destroyed. Sub-Saharan Africa is truly an epicenter for this disease, but increasingly, people are becoming infected in Asia, the Caribbean, and Eastern Europe. Soon, HIV/AIDS will become the worst infectious disease epidemic in recorded history, causing more deaths than both the bubonic plague of the 1930s and the influenza epidemic of 1918–1919.

Young adults and children have been particularly hard hit by the pandemic. Among children under the age of 15, more than 4.3 million have died of AIDS and more than 1.4 million are living with AIDS. Just last year, 600,000 young people became infected and over 90 percent were babies born to HIV-positive mothers.

HIV/AIDS is also hitting those between the ages of 15—24. In some sub-Saharan African countries, the infection rates are more than 40 percent in this population. These high infection rates will have a significant impact on the social and economic health of developing nations. The United States Census Bureau has found the life expectancy in sub-Saharan Africa has fallen almost 30 years within a decade. By 2010, it is estimated that the average life expectancy in Botswana will be 29 years of age, 30 years in Swaziland, 33 years in Namibia, and 36 years in South Africa. Millions of young adults are losing their lives and this will significantly impact the economic and political viability of these Nations. Some Nations are estimated to have a reduced GDP of at least 20 percent or more by 2010 due to decreased productivity of its workers. Over the past thirty years, the United States has invested millions of dollars in democracy building programs and economic stabilization programs. HIV/AIDS has quickly erased much of this progress.

As we look to the future of the world, we are also confronted by the problem of AIDS orphans. USAID estimates that there will be 44 million orphans by 2010. Without a parent or family to

care for them, many will be drawn into prostitution, crime, substance abuse or child soldiery. Furthermore, without stability many of these children will not seek help when they are sick. AIDS threatens to reverse years of steady progress of child survival in developing countries.

The prevalence of HIV/AIDS in the young will have a significant impact on the economic future of the world. The pandemic is contributing to economic decay, social fragmentation, and political destabilization in already strained and volatile societies. These factors are of particular concern in South and Southeast Asia, the Caribbean, Eastern Europe, and the former Soviet Union where the pandemic is just beginning to become a problem. It is estimated that there are more than 5.8 million cases in South and Southeast Asia and the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa. Russia is the new ''hot spot'' for HIV/AIDS. More Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined. Many of these countries do not yet have prevention, treatment and care programs in place and we must equip our federal agencies with the resources and flexibility needed to address the pandemic in all of these areas.

The United States is seen as a leader in efforts to address the epidemic. We contributed almost $500 million to fight HIV/AIDS in fiscal year 2001. Through programs at the U.S. Agency for International Development, we have instituted prevention, care and treatment programs in some of the worst hit countries in sub-Saharan Africa. At the Centers for Disease Control and Prevention, we have worked with partners in other countries to expand treatment and home-based care programs. Other agencies, including the Department of Labor, the Department of Defense, and the Department of Agriculture have contributed in their areas of expertise.

This legislation recognizes the growing problems encountered by children around the world and instructs USAID to make efforts to prevent mother-to-child transmission and orphan programs a major objective of their program. Through coordination with UN agencies, national and local governments, non-governmental organizations and foundations, the U.S. government shall implement effective strategies to prevent vertical transmission of HIV. Further, the bill states that the agency must strengthen and expand all of its primary prevention and education programs.

This bill also calls on USAID to continue to provide support to research that will help the world to understand the causes associated with HIV/AIDS in developing countries and assist in the development of an effective AIDS vaccine.

I believe the ''Global AIDS Research and Relief Act of 2001'' can make a profound difference in the lives of millions of people facing the HIV/AIDS epidemic. I ask all my colleagues to join us and support this legislation at this critical moment in the spread of the disease.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):

S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise today with my colleagues Senator CRAIG and Senator KOHL to introduce a modified version of the ''Dairy Promotion Fairness Act,'' which I introduced earlier this year. This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride.

I introduce a revised version of this legislation, after I received suggestions on how to improve this legislation from America's dairy farmers. Their input is vital to enacting effective dairy legislation, and I thank all the dairy producers of my State not only for their views, but also their work to strengthen Wisconsin's rural economy.

Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

Unlike other agricultural commodity checkoff promotion programs, such as beef, cotton and eggs, the dairy checkoff program collects funds solely from domestic producers. Importers of dairy products do not have to pay into the program, yet they reap the benefits of dairy promotion.

I would also like to make sure my colleagues are aware that June is Dairy Month. This tradition of honoring our hard working dairy farmers, began as ''National Milk Month'' first held in the summer of 1937. Wisconsin celebrates this proud heritage every June by honoring our past accomplishments of Wisconsin as America's Dairy State.

Wisconsin became a leader in the dairy industry after the first dairy cow came to Wisconsin in the 1800's and by 1930 it earned the nickname, America's Dairyland. Dairy history and the State's history have been intertwined from the beginning. The people of Wisconsin are defined by the image of dairy farmers: hardworking, honest and the heirs of a great tradition.

I would like to share with you some of the accomplishments of Wisconsin's Dairy Farmers. Wisconsin is the No. 1 cheese-producing State in the country, with 28 percent of the total annual U.S. cheese production. Wisconsin's 130 cheese plants produce more than 350 varieties, types and styles of Wisconsin cheese.

We produce more than 2 billion pounds of cheese annually. We have more licensed cheese makers than any other state with some of the most stringent state standards for cheesemaking and overall dairy product quality. We lead the nation in the production of specialty cheeses, such as Gorgonzola, Gruyere (gru-yure), Asiago, Provolone, Aged Cheddar, Gouda, Blue, Feta and many others. In fact, we are the only producer of Limburger cheese in the country.

Colby, Wisconsin is the home Colby cheese. And Brick cheese was invented in Wisconsin, Brick is named for its shape, and because cheese makers originally used bricks to press moisture from the cheese.

Wisconsinites have recognized this proud tradition by holding over 100 dairy celebrations across our State, including dairy breakfasts, ice cream socials, cooking demonstrations, festivals and other events. These events are all designed to make the public aware of the quality, variety and great taste of Wisconsin dairy products and to honor the producers who make it all possible.

We must follow the lead of Wisconsin, and honor our dairy farmers by passing this legislation and halting the free ride dairy importers currently receive.

The Dairy Promotion Fairness Act supports the dairy marketing board's efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike.

We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN):

S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, incredibly, there is a good chance that today someone will put on a facial cream, apply a medicine, or even eat a

soup that contains bear parts. Bear bile, gallbladders, paws and claws are found in culinary delicacies, cosmetics and traditional ethnic medicines in Asia, and these parts often fetch thousands of dollars. A cup of bear paw soup has sold for up to $1,500 in Taiwan, and wildlife experts say that a gallbladder can command tens of thousands of dollars on the Asian market. Not surprisingly, the lure of astronomical profits overseas has spawned rampant poaching of American bears. The United States Fish and Wildlife Service continues to find bear carcasses rotting with their gallbladders ripped out and their paws sliced off. Just today, creator Jack Elrod chronicled this heinous act in his wildlife preservation comic strip, ''Mark Trail.''

The slaughter of American black bears and the sale of their parts is a deliberate and dastardly plot hatched by a black market of poachers, traders, and smugglers who have been known to transport bear parts in cans of chocolate syrup or bottles of scotch. Because certain Asian bear populations are being poached to near extinction, poachers and smugglers often target American black bears to meet the demand for bear parts in Asia and even within certain communities here at home. In Oregon alone, one poaching-for-profit ring reportedly killed between 50–100 black bears a year for 5 to 10 years simply to harvest their gallbladders. While the bear population in North America presently is stable, the growth of illegal and inhumane poaching, coupled with the difficulty of anti-poaching enforcement efforts, could pose a real threat to our resident bear population. We should not stand by and allow American bears to be decimated by poachers.

The depleted bear populations in Asia suffer a different, but equally cruel, fate as they are ''protected'' to meet the demand for their bile. National Geographic, U.S News and World Report and The Los Angeles Times each have reported that Asiatic bears in China have been trapped in bear ''farms'' and milked for their bile through catheters inserted into their gallbladders. Bears in other countries often fare no better. In South Korea, for example, bears have been bludgeoned to death or boiled alive in front of patrons to prove they are purchasing authentic Asian bear parts.

Some States in America prohibit trading in bear parts. But others do not. And to make matters more complicated, some States prohibit such trading only if the bear was killed within that State. It hardly takes a lawyer to quickly find the loophole in such a law, poachers and black market profiteers can simply kill a bear in another State and take it back across State lines to sell the parts. And because it is almost impossible to tell where a bear was killed just by looking at its parts, traders and smugglers can always claim that the bear was killed out of State. So, as you can see, our conflicting web of State laws does little to deter poachers from their prey. In fact, the confusing labyrinth of laws may make it easier for poachers to slaughter still more bear.

To help bring the complex, sometimes criminal, and inhumane trade in bear parts to an end, I am once again introducing the Bear Protection Act. This legislation always has enjoyed broad, bipartisan support since I first introduced the bill in the 103rd Congress. Last year the bill passed this chamber by unanimous consent, only to be returned by the House under the blue-slip rule. I am proud to be joined by 25 original cosponsors of the bill today, including 14 Democrats, 10 Republicans and an Independent, and I hope that others soon will join me to help shepherd this important legislation to passage.

My legislation is straightforward. It prohibits the import, export, or sale of bear viscera, or any products containing bear viscera, and it imposes criminal and civil penalties for violators. Enacting a uniform Federal prohibition on the trade in bear parts is necessary to close the loopholes left open by the patchwork of State laws that have facilitated the illegal trade of bear parts in the United States and overseas.

This legislation will in no way affect the rights of sportsmen to hunt bears legally in any State. Illegal bear poaching and legal recreational hunting are separate and distinct acts. Indeed, we should remember that every bear poached for illegal profiteering of bear parts is a bear taken away from sportsmen. A former chief enforcement officer for the United States Fish and Wildlife Service has estimated that approximately 40,000 bears are hunted legally each year, but an almost equal number are poached illegally. Many States understand this problem, as over two-thirds of the States that allow bear hunting also ban the trade of bear parts.

This bill is another example of what I like to call consensus conservation. The legislation does not pit hunters against environmentalists. Nor does it pit States against the heavy hand of the Federal Government on wildlife management or sporting laws. Indeed, I am happy to report that there are no political fireworks in this bill. One look at the cosponsor list should indicate that.

Instead, what we have is a bill that targets a specific legislative goal, to protect bears from illegal and inhumane poaching and black market profiteering. By carefully crafting this legislation with that single goal in mind, we have an opportunity to pass a common sense bill that is supported by wildlife enthusiasts and conservationists while protecting the autonomy of states and the rights of sportsmen.

I continue to believe that these types of targeted, bipartisan conservation efforts that are rooted in consensus goals, rather than conflicting politics, can, in the end, make the most noticeable strides toward protecting our national wildlife and environmental treasures.

I ask unanimous consent that the text of the bill be printed in the RECORD, and I further ask unanimous consent that the RECORD include letters of support from the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Zoo and Aquarium Association.

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

S. 1125

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 ''Bear Protection Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2)(A) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and

(B) the Parties to CITES adopted a resolution in 1997 (Conf. 10.8) urging the Parties to take immediate action to demonstrably reduce the illegal trade in bear parts;

(3)(A) thousands of bears in Asia are cruelly confined in small cages to be milked for their bile; and

(B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term ''bear viscera'' means the body fluids or internal organs, including the gallbladder and its contents but not including the blood or brains, of a species of bear.

(2) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(3) IMPORT.—The term ''import'' means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) PERSON.—The term ''person'' means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State; or

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(7) TRANSPORT.—The term ''transport'' means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(2) is authorized by a valid permit issued under Appendix I or II of CITES, in any case in which such a permit is required under CITES.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) SEIZURE AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, offered for sale or barter, purchased, possessed, transported, delivered, or received in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

In order to seek to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera.

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

Except as provided in section 5, nothing in this Act affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

HSUS STATEMENT IN SUPPORT OF THE BEAR PROTECTION ACT

The Humane Society of the United States, the nation's largest animal protection organization with over seven million members and constituents, strongly supports Senator McConnell's Bear Protection Act.

The Bear Protection Act would eliminate the patchwork of state laws in the U.S. and improve protection of America's bears. Thirty-four states already ban commerce in bear viscera. The remaining states fall into three categories: six allow trade in gallbladders taken from bears legally killed in-state; eight allow trade in gallbladders from bears killed legally outside the state; and two states do not have pertinent laws. This current patchwork of state laws creates loopholes that are exploited by those engaged in the bear parts trade. The loopholes enable poachers to launder gallbladders through states that permit their sale. The Bear Protection Act would eliminate this patchwork of state laws, replacing it with one national law prohibiting import, export, and interstate commerce in bear viscera.

Bear viscera, particularly the gallbladder and bile, have been traditionally used in Asian medicines to treat a variety of illnesses, from diabetes to heart disease. Today, bear viscera is also used in cosmetics and shampoos. Asian demand for bear viscera and products has increased with growing human populations and increased wealth. Bear gallbladders in South Korea are worth more than their weight in gold, potentially yielding a price of about $10,000 each.

While demand for bear viscera and products has grown, Asian bear populations have dwindled. Seven of the eight extant species of bears are threatened by poaching to supply the increasing market demand for bear viscera and products. Most species of bears, and all Asian bear species, are afforded the highest level of protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES has noted that the continued illegal trade in bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.

Dwindling Asian bear populations have caused poachers to look to American bears to meet market demand for bear parts and products. While each year nearly 40,000 American black bears are legally hunted in thirty-six states and Canada, it is estimated that roughly the same number are illegally poached each year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service.

The U.S. Senate passed this legislation in the 106th Congress and we hope swift action will be taken again this year. We also hope that the House will follow the Senate's wise lead and act to protect bears across the globe before it's too late. The Humane Society of the United States applauds Senator McConnell and the quarter of the United States Senate that has signed onto the Bear Protection Act as original cosponsors. With Senator McConnell's leadership, there may come a day when bear poachers and bear parts profiteers no longer are able to ply their cruel trade unpunished.

BEAR PROTECTION ACT IS URGENTLY NEEDED

The Society for Animal Protective Legislation strongly supports Senator Mitch McConnell in his effort to pass the Bear Protection Act once again. This bill would end the United States' involvement in the trade of bear viscera by prohibiting the import, export and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous profits for the poachers who illegally kill them and the merchants who sell their organs for use in traditional medicine remedies.

The insatiable, growing demand for bear viscera contributed mightily to the decimation of the Asiatic black bear and may do the same to the stable population of American black bears if a law is not passed to eliminate the United States' role in supplying this devastating bear parts trade.

There is a price on the head of every bear in this country and Senator Mitch McConnell deserves high praise for introducing proactive legislation protecting bears from the looming threat of the gallbladder trade.

The current patchwork of state laws addressing the trade in bear gallbladders and bile allows an illegal trade to flourish. It is impossible to distinguish visually the dissociated gallbladder of one state's black bear from another. This enables smugglers to acquire gallbladders illegally in one state, transport them to a state where commercialization of bear parts is legal, and sell the gallbladders under false pretenses. These gallbladders are also smuggled out of the country, providing a laundering opportunity for the sale of gallbladders from highly endangered bears.

Enactment of Senator McConnell's Bear Protection Act will ensure that those who seek to profit by the reckless destruction of America's bears can be punished appropriately for their illegal and immoral activity.

Mr. McConnell's bill does not impact a state's ability to manage its resident bear population or a lawful hunter's ability to hunt bears in accordance with applicable state laws and regulations. The Bear Protection Act is not about bear hunting—it's about ending bear poaching. This is a laudable goal that all Americans should support.

American citizens should not sit by helplessly while bears are slaughtered, their gallbladders ripped out and the carcass unceremoniously left to rot. It's time to take a stand against bear poachers and profiteers. Congratulations to Senator McConnell for taking up the charge.

AMERICAN ZOO AND AQUARIUM ASSOCIATION,
Silver Spring, MD, June 26, 2001.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: I am writing on behalf of the 196 accredited members of the American Zoo and Aquarium Association (AZA) in support of your proposed Bear Protection Act of 2001.

AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members who provide almost $100 million in support. Collectively, these institutions teach more than 12 million people each year in living classrooms, dedicate over $50 million annually to education programs, invest over $50 million annually to scientific research and support over 1,300 field conservation and research projects in 80 countries.

In addition, AZA member institutions have established the Species Survival Plan (SSP) program—a long-term plan involving genetically-diverse breeding, habitat preservation, public education, field conservation and supportive research to ensure survival for many threatened and endangered species. Currently, AZA member institutions are involved in 96 different SSP programs throughout the world, including four species of bear—sloth, sun, spectacled and the giant panda.

It is in this context that AZA expresses its support for the Bear Protection Act. There is little question that most populations of the world's eight bear species have experienced significant declines during this century, particularly in parts of Europe and Asia. Habitat loss has been the major reason for this decline, although overhunting and poaching have also been factors in some cases, especially in Asia. In recent years, the commercial trade of bear body parts, in particular gallbladders and bile, for use in traditional Asian medicines has been implicated as the driving force behind the illegal hunting of some bear populations. Analyses by the US Fish and Wildlife Service (USFWS), TRAFFIC and other organizations have documented the existence of illicit commercial markets and smuggling rings for bear body parts.

Recent information suggests that this is not only an overseas issue but a domestic one as well. The American black bear is listed on Appendix II of CITES due to the similarity of appearance to other listed bear species, and conservation and management of black bear populations remains largely in the hands of the states. Most states prohibit commercial trade in bear parts but there are some states that still allow commercial trade of products from bears taken within their borders. Several other states do not explicitly prohibit the commercial trade in parts from bears taken within the borders of other jurisdictions. This has raised concerns that inconsistent state laws may facilitate illegal trade and laundering of bear parts.

The relatively high value of the wild bear parts, particularly viscera, on the international market warrants that continued action be taken to minimize the threat or potential threat of illegal trade. Your bill provides the necessary first step for closing the potential loopholes that are afforded to bear poachers and dealers by fragmented state laws. Equally important, the bill encourages dialogue between the U.S. and countries known to be leading importers, exporters, and consumers of bear viscera in an attempt to coordinate efforts to protect threatened and endangered bear populations worldwide.

AZA applauds your efforts in this important wildlife conservation matter. In addition, AZA stands ready to work with you to ensure that the necessary funds are authorized and appropriate for the effective administration and enforcement of this critical work.

Please feel free to contact AZA if you have any question or comments.

Regards,

SYDNEY J. BUTLER,
Executive Director.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, next week our nation will celebrate Independence Day. Yet, as we celebrate the land of opportunity that is America, we must keep in mind those who, even in this great nation, do not have the same opportunities as everyone else. In rural communities across the nation, an entire segment of our population does not have the opportunity to access powerful broadband communications services representing the high-speed, high-capacity on-ramps to the information super highway. Why? Because for all intents and purposes broadband does not exist in most of rural America.

Broadband is increasing the speeds and capacity with which consumers and businesses alike access the Internet, and opening up a whole new world of information, e-commerce, real-time high quality telemedicine, distance learning, and entertainment. The power of broadband will level the playing field between rural and urban communities in a global economy.

Today I rise to introduce the Rural Broadband Deployment Act of 2001 and the Broadband Deployment and Competition Enhancement Act of 2001. Two bills designed to ensure that all Americans have access to the advantages of broadband connections. I would like to thank my colleague from Wyoming, Senator ENZI, for his cosponsorship and support. These two bills, together or individually, will ensure broadband deployment in our nation's rural areas, and will enable us to renew our long-standing commitment that rural communities have access to the same telecommunications resources as urban communities.

My singular objective, in both bills, is high-speed Internet access for everybody in America by 2007.

This is a bipartisan objective. The Democratic party has announced its intention to ensure universal access to broadband by the end of this decade. I commend my colleagues on the other side of the aisle for their recognition of the importance of broadband and I look forward to working with them to achieve our common goal.

New approaches will be needed to achieve universal broadband availability. Some of my colleagues have introduced legislation consisting of tax incentives or loan subsidies. Programs such as these can help to deliver on the commitment to make broadband universally available, but these proposals alone will not achieve that goal. Deregulation has a key role to play in this effort.

Deregulation has been the driver of broadband deployment to date: cable companies, largely deregulated by the 1996 Telecommunications Act, have invested almost 50 billion dollars in upgrades to their networks. These upgrades have in turn enabled them to deploy broadband, and cable companies now serve 70 percent of the broadband market. Satellite companies, also unregulated in the broadband market, are deploying one-way high-speed Internet access and are working to deploy two-way broadband services. Some companies are utilizing wireless cable licenses to deploy broadband, and they too are unregulated in the broadband market.

Deregulation is a powerful motivator for the deployment of new technologies and services. Unregulated small cable companies, and all but unregulated rural and small telephone companies are taking advantage of their regulatory status to deliver broadband to rural consumers.

The broadband market, distinct from the local telephone market, is new. Yet, federal and State regulators are placing local telephone competition regulations on broadband-specific facilities deployed by incumbent local exchange carriers, ILECs, the only regulated broadband service providers, as if they were part and parcel of their local telephone service. This is simply not the case. The local telephone market is not synonymous with the broadband market. The disparate regulatory treatment of phone companies deploying broadband and all other broadband service providers is serving to deny broadband to many rural communities.

Broadband facilities being deployed by ILECs throughout our cities and towns require billions of dollars of capital investment in new infrastructure that must be added to the existing telephone network. The sparse populations of rural communities already diminish

the return on infrastructure investment so that, when combined with local telephone market regulations, ILEC broadband deployment has not proven to be cost effective.

As a result, rural telephone exchanges owned by regulated telephone companies are not being upgraded for broadband services even while unregulated companies seem to be capable of making that substantial investment. In Wellington, Kansas, a rural community with around 10,000 residents, a small unregulated cable company called Sumner Cable has deployed broadband service. Yet, Southwestern Bell, the local regulated telephone company and a Bell operating company, is not deploying broadband. Different regulatory treatments of these companies creates the incentive for one to deploy broadband, but not the other. This is being seen throughout our nation's rural communities, and is particularly disappointing. The Bell operating companies serve approximately 65 percent of rural telephone lines like those found in Wellington.

Broadband is certainly being deployed at a much faster rate in urban markets than rural markets. But that does not mean all is well in our nation's cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

The Broadband Deployment and Competition Enhancement Act of 2001 promotes broadband deployment in rural markets by requiring ILECs to deploy to all of their telephone exchange subscribers within 5 years. In exchange, ILEC broadband services are placed on a more level-playing field with their broadband competitors. This is achieved by deregulating only those new technologies added to the local telephone network that make broadband possible over telephone lines. By permitting ILECs to compete on a level playing field with their broadband competitors in their urban markets, we can create the proper balance between requirements and incentives.

The limited deregulation in this legislation will not affect competition in the local telephone market. CLECs will still have access to the entire legacy telephone network to use as they see fit, and they will still be permitted to combine their own broadband equipment with the telephone network to compete in the broadband market. In those parts of the local telephone network where new network architecture must be deployed to make broadband possible, CLECs are free to add their own facilities to the network so they can compete for every potential broadband subscriber in a market.

In Kansas, we have many farms and small rural communities. I grew up on a farm near Parker, Kansas. My hometown has 250 people. My singular goal in introducing this legislation is to facilitate rural broadband deployment. Given the importance of ensuring broadband is deployed in rural communities, I have elected to introduce two different bills on the same issue. I am willing to pursue either approach depending on which one will get us to the day of ubiquitous broadband.

It seems clear that, no matter how worthy broad-based deregulation is in the broadband market, any such effort must navigate through the typical back and forth between the baby Bells, long distance companies, and now CLECs. If a more limited approach can avoid the traditional ''phone wars'' then I am happy to put forth such an alternative.

The Rural Broadband Deployment Act of 2001 is a more geographically limited approach to spurring broadband deployment. It includes broader deregulation of ILEC broadband services, but limits that deregulation only to rural communities. By ramping up the deregulation, yet restricting the size of the market where that deregulation is applied, it is my intention to create the same balance of requirements that I previously mentioned.

I realize that introducing two pieces of legislation on the same issue on the same day is a bit unorthodox. But given the clear need and importance of universal broadband, I feel it is my duty to do anything I can to move this debate forward. Providing alternatives for the consideration of my colleagues is part of this process.

I urge my colleagues to give consideration to either of these bills, and I urge your cosponsorship.

Mr. ENZI. Mr. President, I rise as an original cosponsor of Senator BROWNBACK's Broadband Deployment and Competition Enhancement Act of 2001. I thank my colleague from Kansas for drafting this innovative legislation to help solve the problem of the lack of availability of advanced telecommunications services in rural areas.

Telecommunications has come a long way from the days of the party line and operator assisted calls. Telecommunications services have allowed entrepreneurs to locate their business anywhere they can get a dial tone and have helped to bring jobs to rural America. I have been working to encourage more infrastructure development as a way of creating a business environment that will attract new jobs to the places that need them.

The 20th Century has seen the economy of the United States and the world change from an industrial economy to an information economy. We are only at the beginning of the ''Information Revolution'' and now is the best time for private industry and government to take a pro-active role in helping to create the business and regulatory conditions necessary to encourage the widespread deployment of advanced telecommunications services.

Since 1995, the State of Wyoming has been attempting to create a competitive local phone market that would have a multitude of competitors and result in lower rates. The cost of providing service in Wyoming is significantly higher than in other areas of the Nation due to our low population and long distances between towns. This has caused many companies to pass Wyoming by in search of easier profits in urban areas and leave many of our towns with only one choice for broadband service, if they have a provider at all.

One of the reasons why advanced services have been slowly deployed is that Wyoming's wide open spaces make the telecommunications needs of our residents very different than people in urban areas. The economic model of the industry is to serve areas with a high population density in order to keep costs low. In the West, it's harder to make that model work, but the independent telephone companies, Qwest and the cable companies are working hard to offer their customers a full complement of services at a reasonable price, many services that urban telephone customers take for granted.

High speed Internet access has been delayed for two reasons, cost and availability. Advanced telecommunications services can help to build Wyoming's economy. Companies are beginning to realize that our State has a ready work force and the lower costs of doing business are making companies choose Wyoming. Many existing businesses are taking advantage of the Internet to bring their products and services to the world. Where once a store was limited to only being able to serve those within driving distance of it, now it can bring Wyoming to the world. This cannot take place without the continued roll out of broadband business services.

Wyoming has for many years been promoting the benefits of telecommuting. People living around the State have been able to connect to their office via computer and remain in contact with clients. Telecommuting now requires high speed access and that is available in some limited areas. In other areas, the only data access is via a regular dial-up modem. There are companies that are deploying digital subscriber lines and cable modems, but those locations are limited and the price is too high to be adopted by a majority of Wyoming residents. Over time that price will come down, but this is not a call for public subsidies or government mandates, but a call for more competition and deregulation. Competition will bring lower prices and

greater deployment of services to even the smallest of towns.

That is why I am an original cosponsor of Senator BROWNBACK's bill. His bill creates a deregulatory regime that is backed by specific performance requirements and strong enforcement provisions.

The bill requires Incumbent Local Exchange Carriers, ILEC's, to be able to provide advanced services to all of its customers within 5 years of the enactment of this legislation in order to receive the benefits of deregulation. This ensures that companies will bring advanced services and competition to rural areas by giving a hard deadline for companies to complete their buildout.

Advanced services would be deregulated by exempting them from the requirements that ILECs make packet switching and fiber available to competitors at below cost rates. This would specifically deregulate the equipment that makes it possible to provide advanced services over traditional phone lines. The bill also exempts fiber optic lines owned by ILECs from below cost pricing if the fiber is deployed either to the home or in areas that never had telephone infrastructure before. I believe that this will be key to making the economics of rural advanced services more favorable for companies wanting to invest in rural broadband deployment.

The bill would also give ILECs the necessary pricing flexibility for their broadband services. I believe that we should not hamstring a new technology in a very competitive marketplace with outdated regulations on price. It is important that Congress ensure that in addition to the wholesale pricing relief contained in this legislation, it also includes retail pricing flexibility to further make the economics more favorable.

The bill does not change the requirements that ILECs allow competitors to collocate their equipment in an ILEC facility. Collocation is very important since it ensures that competitors have access to the network and do not have to build distant links or other connections to the ILEC network.

The bill also does not eliminate the requirement that ILECs give competitors access to local loops. In fact, if an ILEC does not grant a competitor access to local lines the bill gives state regulators the right to strip the ILEC of the deregulatory benefits contained in the bill.

The bill's enforcement provisions are very strong and explicit. If a company does not meet the build-out requirement, does not permit a competitor to collocate and/or grant competitors access to local loops, state regulators have the authority to return an ILEC to the old regulatory regime. Deregulation without proper enforcement mechanisms does not benefit consumers and competitors. It is important that we hold ILECs accountable if they are granted relief from the pricing requirements.

I have been working with my colleagues to create a mix of deregulation and incentives to encourage private infrastructure development. Government cannot force private firms to make unprofitable investments, but government can work to make investments in rural infrastructure more favorable. The Broadband Deployment and Competition Investment Act helps to make investment in advanced services in rural areas possible.

The great strides made by both Qwest, the smaller phone companies and the cooperatives show that rural areas can support fiber optic based services. The Wyoming Equality Network, the fiber based network linking all of Wyoming's high schools, has been a great advancement for education and I applaud the State's foresight for undertaking such a far reaching project. The WEN has had the added effect of showing other companies that it is possible to link rural areas with fiber, bringing high speed data services and other advanced services to homes and businesses.

I am pleased to see that Qwest and several smaller companies have worked together to close the inter-office fiber loop, linking all local phone exchanges with a fiber optic connection. This will allow for greater capacity and new services like DSL and other high speed broadband services. This connection will help many areas of Wyoming overcome many of the service problems they have been experiencing for the last several years.

The objective of telecommunications policy should be to bring as many players into the marketplace and allow them to compete in the marketplace. Congress should not tie a company's hands in a continually changing and competitive marketplace. We should ensure that all parties are on a level playing field and that all services are regulated in the same manner regardless of the company that is offering the service or the technology they are using. This legislation will help bring some needed consistancy to the regulation of advanced services and I urge my colleagues to support this vital legislation.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, I am pleased to introduce legislation today to provide relief from the pay compression affecting career Federal employees serving in the Senior Executive Service, SES. It is nearing a decade since Senior Executive Service members have seen a meaningful adjustment in pay.

The salaries earned by these employees are, on average, well below those earned by their peers in private industry. Pay caps for the Senior Executive Service and certain other positions in the government are tied to the Executive Schedule which includes senior level officials as well as Members. Pay freezes for positions on the Executive Schedule in five of the past eight years has resulted in pay compression so severe that 60 percent of the entire executive corps earns essentially the same salary despite differences in obligation and executive level. Over the past eight years, pay increases for these executives would average 1 percent per year. There is not much of an incentive to accept a higher position with added responsibilities and increased work hours for little or no increase in pay.

Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression. Others find that retirement is a more sensible option, whereas Federal annuitants receive an average two and a half percent cost of living adjustment every year compared to the average one percent per year pay increase a senior executive may receive if she or he remained in Federal service.

I have heard from many SES employees relating their own stories as to how the problem of pay compression has affected them. I would like to share a few of these personal accounts.

From an ES–6 with the Department of Defense: ''My pay has been capped and I have not been receiving raises. This year I received a surprise. I turned 55 and I subsequently experienced a $115.16 decrease in pay in January because my life insurance increased considerably, along with the contribution to retirement increase. Age 55 is not old! I expect to work a few more years and I expect my pay to increase so that I can enjoy my retired years with a reasonable retirement income that has not been eroded by the pay cap.''

A Senior Executive at the Department of Health and Human Services: ''The highest career Deputy General Counsel position in my agency became vacant, and I was called by the General Counsel to seriously consider taking it. Aside from the many family issues involved in any move to Washington, an overriding aspect is the fact that I am already at the pay cap. Thus, a move into a position with more responsibility would provide no financial incentive. Although I'm obviously not in government serve for any huge financial rewards, I don't want to go backward financially. Thus, I have decided to forgo this very challenging opportunity that would be a fitting pinnacle to my career with the Federal Government.''

Private Contractor, Department of Defense: ''I turned down a job at the US Nuclear Command and Control System Support Staff, where I'd been stationed on active duty as a Regular Air Force Officer. I retired from the NSS four years ago after over 23 years in the Air Force, and was honored to get offered a Civil Service position back at the office. Instead, I reluctantly turned

down the job. The reason was primarily monetary. In order to take the job, it would have been necessary to give up part of my Air Force retirement pay because I retired as a regular officer. To make matters worse, my pay would have been capped. The bottom line is I would have taken a pay cut with no prospect of a pay raise in the foreseeable future. My family and I were asked to sacrifice pay and time together which we willingly did for over 23 years. Instead, I'm supporting the government in the role of a private sector contractor, where I'm fairly compensated for my expertise.''

These are just a few examples which illustrate how the freeze on executive pay and resulting pay compression have seriously eroded the government's ability to attract and retain the most highly-competent career executives. This is a very timely issue for the Federal Government, seventy percent of the SES corps is eligible to retire over the next four years and almost half are expected to retire upon eligibility. Agencies are being forced to make special requests to increase salaries for their managers and supervisors. They recognize that when someone leaves Federal service, their knowledge and experience goes with them.

The legislation I am introducing increases base pay for Senior Executives from Executive Level IV to Executive Level III, extends locality pay to the Executive Schedule, increases the locality cap from Executive Level III to Executive Level III plus locality pay, and increases the overall limit on compensation that can be received in a single year by career executives from Executive Level I to the Vice-Presidential level. The bill also includes certain positions in the Federal judiciary which have been impacted by the pay caps. The actual raises career executives would receive would continue to be determined at the President's discretion.

The legislation does not, in and of itself, raise senior executive pay and does not increase the salaries of Members of Congress.

It is also my intention to ensure that this issue remains a priority for the incoming Director at the Office of Personnel Management. During the confirmation hearing before the Senate Governmental Affairs Committee last week for Mrs. Kay Coles James, President Bush's nominee to head the Office of Personnel Management, Mrs. James indicated her willingness to work with Members to address the problem of pay compression.

Pay compression within the Senior Executives Service is one of the more pressing issues facing the Federal employee workforce and must be addressed as the situation will only get worse. The only means to alleviate pay compression for the Senior Executives at this time is through legislation. Therefore, I encourage my Senate colleagues to support the bill.

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. 1129

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

SECTION 1. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE EXECUTIVE BRANCH.

(a) EXECUTIVE SCHEDULE PAY RATES.—

(1) IN GENERAL.—Section 5318 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and subsection (b) as paragraph (2); and

(B) by adding at the end the following:

''(b)(1)(A) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which any comparability payment becomes payable under section 5304 or 5304a with respect to General Schedule employees within the District of Columbia during any year, the annual rate of pay for positions at each level of the Executive Schedule (exclusive of any previous adjustment under this subsection) shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next highest multiple of $100) equal to the percentage of such annual rate of pay which corresponds to the percentage adjustment becoming so payable with respect to General Schedule employees within the District of Columbia under such section 5304 or 5304a (as applicable).

''(B) If an adjustment under this subsection is scheduled to take effect on the same date as an adjustment under subsection (a), the adjustment under subsection (a) shall be made first.

''(2) An annual rate of pay, as adjusted under paragraph (1), shall for all purposes be treated as the annual rate of pay for the positions involved, except as otherwise provided in subsection (a), paragraph (1), or any other provision of law.

''(3) Nothing in this subsection shall be considered to permit or require the continuation of an adjustment under paragraph (1) after the comparability payment (for General Schedule employees within the District of Columbia) on which it was based has been terminated or superseded.''.

(2) CONTRACT APPEALS BOARD MEMBERS.—Section 5372a of title 5, United States Code, is amended—

(A) in subsection (b)(2) by striking ''97 percent of the rate under paragraph (1)'' and inserting ''no less than 97 percent of the rate under paragraph (1)'';

(B) in subsection (b)(3) by striking ''94 percent of the rate under paragraph (1)'' and inserting ''no less than 94 percent of the rate under paragraph (1)''; and

(C) by adding at the end the following:

''(d) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for contract appeals board members shall be adjusted by an amount determined by the President to be appropriate.''.

(3) CONFORMING AMENDMENTS.—Section 5318 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) (as redesignated)—

(i) by striking ''Subject to subsection (b),'' and inserting ''Subject to paragraph (2),''; and

(ii) by inserting ''(exclusive of any previous adjustment under subsection (b))'' after ''Executive Schedule''; and

(B) in subsection (a)(2) (as redesignated), by striking ''subsection (a)'' and inserting ''paragraph (1)''.

(b) AMENDMENTS RELATING TO CERTAIN LIMITATION AND OTHER PROVISIONS.—

(1) PROVISIONS TO BE APPLIED BY EXCLUDING EXECUTIVE SCHEDULE COMPARABILITY ADJUSTMENT.—Sections 5303(f), 5304(h)(1)(F), 5306(e), and 5373(a) of title 5, United States Code, are each amended by inserting '', exclusive of any adjustment under section 5318(b)'' after ''Executive Schedule''.

(2) LIMITATION ON CERTAIN PAYMENTS.—Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the case of an employee who is receiving basic pay under section 5372a, 5376, or 5383, paragraph (1) shall be applied by substituting 'the annual rate of salary of the Vice President of the United States' for 'the annual rate of basic pay payable for level I of the Executive Schedule'. Regulations under subsection (c) may extend the application of the preceding sentence to other equivalent categories of employees.''.

(3) REFERENCES TO LEVEL IV OF THE EXECUTIVE SCHEDULE.—Sections 5372(b)(1)(C), 5372a(b)(1), 5376(b)(1)(B), and 5382(b) of title 5, United States Code, are each amended by striking ''level IV'' each place it appears and inserting ''level III''.

SEC. 2. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE JUDICIAL BRANCH.

(a) INCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(1) FOR POSITIONS COVERED BY SECTION 604(a)(5) OF TITLE 28, UNITED STATES CODE.—Section 604(a)(5) of title 28, United States Code, is amended by striking ''by law'' and inserting ''by law (except that the rate of basic pay fixed under this paragraph for any such employee may not exceed the rate for level IV of the Executive Schedule)''.

(2) FOR CIRCUIT EXECUTIVES.—Section 332(f)(1) of title 28, United States Code, is amended by striking ''level IV of the Executive Schedule pay rates under section 5315'' and inserting ''level III of the Executive Schedule pay rates under section 5314''.

(3) FOR PERSONNEL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) IN GENERAL.—Section 3(a) of the Administrative Office of the United States Courts Personnel Act of 1990 (28 U.S.C. 602 note) is amended—

(i) in paragraph (1), by striking ''level V'' and inserting ''level IV''; and

(ii) in paragraph (10), by striking ''level IV'' and inserting ''level III''.

(B) PROVISIONS RELATING TO CERTAIN ADDITIONAL POSITIONS.—Section 603 of title 28, United States Code, is amended by striking ''level IV of the Executive Schedule under section 5315'' and inserting ''level III of the Executive Schedule under section 5314''.

(b) SALARY OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 603 of title 28, United States Code, is amended by striking ''district'' and inserting ''circuit''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to pay periods beginning on or after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long

term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, today I am introducing a bill of great significance to our energy future, the Fusion Energy Sciences Act of 2001. I am especially pleased that my colleague from California, Senator FEINSTEIN, is joining me as the primary cosponsor of this legislation. This bill is designed to strengthen the fusion program at the Department of Energy and to accelerate planning for the next major step in fusion energy science development.

In recent months, the news has been dominated by energy concerns. Although there may be differences of opinion about the causes of our current energy problems and what the appropriate solutions might be, there is general agreement that energy forms a vital link to our economic prosperity and provides the means by which the conduct of our daily lives is made easier and more comfortable. While we grapple with short term remedies, we need to stay focused on long term investment in those endeavors which have the potential to help secure our energy future. I believe that fusion energy has this potential.

Fusion is the energy source that powers the sun and the stars. At its most basic, it is the combining or fusion of two small atoms into a larger atom. When two atomic nuclei fuse, tremendous amounts of energy are released.

If we can achieve this joining of atoms, and successfully contain and harness the energy produced, fusion will be close to an ideal energy source. It produces no air pollutants because the byproduct of the reaction is helium, it is safe and its fuel source, hydrogen, is practically unlimited and easily obtained.

In the technical community, the debate over the scientific feasibility of fusion energy is now over. During the past decade, substantial amounts of fusion energy have been created in the laboratory setting. I am proud to note that some of this underlying scientific work has been conducted at the Idaho National Engineering and Environmental Laboratory in my State, which has been selected by the Department of Energy to lead efforts on fusion safety.

Although certain scientific questions remain, the primary outstanding issue about fusion energy at this point is whether fusion energy can make the challenging step from the laboratory into a practical energy resource. Achieving this goal will require high quality science, innovative research and international collaboration, and the resources to make this possible. That is the goal to which this legislation is directed.

According to the scientific experts, the path to practical fusion will involve three steps. First, there is a need to conduct a ''burning plasma'' experiment. Second, this effort would be further developed in an engineering test facility. The third step would be a demonstration plant. If taken in series, each of these steps would take approximately fifteen years, but through international collaboration, it may be possible to accelerate this process. In addition to these steps, continued investment in a strong underlying program of fusion science and plasma physics will still be necessary.

Therefore, this bill instructs the Secretary of Energy to transmit to the Congress by July 1, 2004 a plan for a ''burning plasma'' experiment, which is the next necessary step towards the eventual realization of practical fusion energy. At a minimum, the Secretary must submit a plan for a domestic U.S. experiment, but may also submit a plan for U.S. involvement in an international burning plasma experiment if such involvement is cost effective and has equivalent scientific benefits to a domestic experiment. The bill also requires that within six months of the enactment, the Secretary of Energy shall submit a plan to Congress to ensure a strong scientific base for the fusion energy sciences program. Finally, for ongoing activities in the Department of Energy's fusion energy sciences program and for the purpose of preparing the plans called for, the bill authorizes $320,000,000 in fiscal year 2002 and $335,000,000 in fiscal year 2003.

As we suffer through near term challenges in the energy sector and meeting our immediate needs, it is more crucial than ever that we invest in those items that hold the promise for long term solutions. Recent accomplishments in the laboratory demonstrate that fusion energy has this long term potential. The Fusion Energy Sciences Act of 2001 will bring this promise closer to reality for future generations.

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. 1130

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 my be cited as the ''Fusion Energy Sciences Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy productions and use;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future must be pursued aggressively now, as part of a balanced national energy plan;

(5) fusion energy is a long-term energy solution that is expected to be environmentally benign, safe, and economical, and to use a fuel source that is practically unlimited;

(6) the National Academy of Sciences, the President's Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent;

(7) each of these reviews stressed the need for the Fusion Energy Sciences Program to move forward to a magnetic fusion burning plasma experiment, capable of producing substantial fusion power output and providing key information for the advancement of fusion science;

(8) the National Academy of Sciences has also called for a broadening of the Fusion Energy Sciences Program research base as a means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 3. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary of Energy (in this Act referred to as 'the Secretary'), on the basis of full consultation with, and the recommendation of, the Fusion Energy Sciences Advisory Committee (in this Act referred to as ''FESAC''), shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with, and the recommendation of, FESAC, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 4. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Secretary, in full

consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiment described in section 3. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 3; and

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review of the plans described in this Act and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague, Senator LARRY CRAIG, in introducing this legislation to accelerate the development of fusion energy as a practical and realistic alternative to fossil fuels for our nation's energy needs.

I would also like to commend my colleague, Congresswoman ZOE LOFGREN, who introduced the ''Fusion Energy Sciences Act of 2001'' on the House side as H.R. 1781.

Since the beginning of the Manhattan Project, scientists have been trying to harness energy from fusion to produce electricity. This legislation will help the scientific community expedite the development of fusion as a viable option for our energy needs.

To help fusion science move from the lab to the grid, this bill fast-tracks a key experimental fusion project. This bill also authorizes $320 million for Fiscal Year 2002 and $335 million for Fiscal Year 2003 to speed up fusion's current estimated 45-year implementation timetable.

I have spoken frequently to my colleagues on California's current energy situation.

Last week the Department of Energy predicted the State will suffer from around 110 hours of rolling blackouts this summer. Experts say $21.8 billion of economic output will be lost and over 135,000 workers will lose their jobs because of this summer's blackouts.

I will continue to try to help California and the rest of the West in the short-term. Making rolling blackouts less frequent, lowering electricity costs on the wholesale market, keeping natural gas prices reasonable, and bringing new supplies of power online are the key objectives I have been working toward to bring stability to the Western Energy Market.

While I work on the short-term problems in California, I join my colleague from Idaho on this bill to develop a key long-term solution to our current energy problems.

As world populations grow, and as civilization advances, we need to pursue new energy sources beyond traditional fossil fuels.

It is no secret that fossil fuels are finite and polluting. Beyond expanding renewable energy sources such as those from the sun and the wind, fusion holds a great deal of potential to expand our nation's energy supply.

Fusion is a safe, almost inexhaustible energy source with major environmental advantages. As a co-sponsor of this legislation, I hope to see fusion move quickly from an experiment in the lab to a reality for our homes and businesses.

We have already succeeded in using scientific advancements to harness energy occurring elsewhere on our planet. Solar panels collect the sun's rays to heat pools and power homes. Windmills transfer nature's gusts into electrical currents. Water running from mountaintops to the sea can produce significant amounts of hydroelectric power.

And now, with fusion energy, we will be able to harness the power of the stars to create an almost unlimited and clean form of energy.

Fusion energy is the result of two small hydrogen atoms combining into a larger atom. The energy released from this fusion of the atoms can be harnessed to generate electricity.

Unlike nuclear power, which uses radioactive materials for fuel, fusion uses hydrogen from water. Unlike fossil fuels, which pollute the air when burned, the only byproduct in a hydrogen fusion reaction is helium, an element already plentiful in the air.

Besides being environmentally benign, fusion is a practically unlimited fuel source. In fact, scientists predict that using 1 gallon of sea water, fusion can yield the energy produced from 300 gallons of gasoline. And with fusion, 50 cups of sea water can be the energy equivalent of 2 tons of coal.

Fusion energy has been proven to be a practical energy endeavor, worthy of more investment for research and development. So just where do we go from here? How do we harness the power of the stars?

A 1999 review by the Department of Energy's task force on Fusion Energy concluded: one, substantial scientific progress has been made in the science of fusion energy; two, the budget for fusion research needs to grow; and three, a burning plasma experiment needs to be carried out.

To expedite the use of fusion to meet our energy needs, we need to strengthen the efforts already underway in fusion research and development and create new programs financed by the government.

Scientists agree that at current funding levels, fusion is approximately 45 years away from entering the marketplace as a viable energy source.

This timetable is based upon a three step process in which the scientific community can: first, carry out a burning plasma experiment; second, build a fusion energy test facility; and third, establish a fusion demonstration plant to generate electricity.

Since practical fusion energy generation is still three stages from real implementation, the first thing we can do is fund the development of a burning plasma experiment.

This legislation will ensure this project will happen soon, carried out either by the scientific community in the United States, or in collaboration with an international effort. The bill requires the Secretary of Energy to develop a plan by 2004 for a magnetic fusion burning plasma experiment.

It is important to point out that this bill adds the burning plasma experiment in addition to, and not at the expense of, other ongoing projects.

The goal of fusion energy is to create a continually burning fuel like a fire refueling itself. Developing a magnetic fusion plasma experiment will help the scientific community demonstrate how the heat from the fusion reaction can maintain the reaction as a self-generating fuel. Strong magnetic fields allow the hydrogen plasma to be heated to high temperatures for fusion.

This legislation will help the scientific community overcome the key stumbling block to fusion development. By authorizing $320 million for Fiscal Year 2002 and $335 for Fiscal Year 2003 the fusion plasma experiment will be carried out and fusion funding that peaked in the 1970s, but has since tapered off, will be restored.

Let me just take a moment to mention where this funding is going, because it is particularly important for me to point this out.

Annual Federal funding for fusion energy has averaged around $230 million in the last few years. In Fiscal Year 2001, Congress appropriated $248.49 million for fusion research.

This money has provided approximately 1,100 jobs in California at the following U.S. Fusion Program Participant locations: UC Davis, UC Berkeley, Stanford, UCLA, UC Santa Barbara, Cal Tech, UC San Diego, UC Irvine, Occidental College, Lawrence Livermore National Lab, Sandia National Lab, Stanford Linear Accelerator Center, Lawrence Berkeley National Lab, TSI Research Inc. and General Atomics.

Despite all of the past advancements at these facilities and others, the Fusion Energy Science Advisory Committee has concluded that lack of funding is hindering the technological advance towards fusion energy development. And the Department of Energy's task force on Fusion Energy has concluded that, ''In light of the promise of fusion,'' funding remains ''subcritical.''

Currently, the international community is outpacing us on the road to realizing the myriad benefits of this new energy resource. The Japanese budget for this type of research is about 1.5

times that of the U.S., and the European budget is about 3 times greater.

It is critical that we be the leader in the renewable energy resources sector.

I urge my colleagues to join Senator CRAIG and me in supporting fusion energy as a clean, safe, and abundant energy source for our Nation's long-term energy supply.

By Mr. LEAHY:

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

Mr. LEAHY. Mr. President, the Administration finally released its National Energy Policy last month. As I noted at the time, I have serious concerns about several of its recommendations, not the least of which was its proposal to build 1,300 to 1,900 new electric power plants many of them burning relatively dirty fossil fuels, while, at same time, questioning the enforcement of clean air laws that protect the public from excess power plant emissions.

Today, fossil fuel-fired power plants constitute the largest source of air pollution in the United States. Every year, they collectively emit approximately 2.2 billion tons of carbon dioxide, 13 million tons of acid rain-producing sulfur dioxide, 7 million tons of acid rain- and smog-producing nitrogen oxides, and 43 tons of highly toxic mercury.

How could pollutants still be dumped into our atmosphere at this scale? One reason that cannot be ignored is that more than 75 percent of the fossil-fuel fired power plants in the United States are still ''grandfathered,'' or exempt from modern Clean Air Act standards. When the Clean Air Act and its amendments were passed, Congress assumed that old, 1950's era power plants would be retired over time and replaced by newer, cleaner plants within 30 years. They were not. Unfortunately, utilities have kept these inefficient, pollution-prone power plants on line because they are inexpensive. Those grandfathered plants continue to burn cheap fuel and refuse to invest in emissions control technologies that protect air quality.

The continuing harm to our atmosphere, lands, waters, State economies, and public health by excess power plant emissions is well documented. In my home state of Vermont, acid deposition caused by emissions of sulfur dioxide and nitrogen oxide has scarred our forests and poisoned our streams. Emissions of mercury have contaminated our rivers and lakes to the point that statewide advisories against fish consumption are necessary to protect citizens. Emissions of greenhouse gas threaten to negatively change the climate for Vermont maple trees the source of Vermont maple syrup and other economic Vermont crops. And despite Vermont's tough air laws and small population, out-of-state particulates and smog lower our air quality, endanger our health, and ruin views of our Green Mountains.

Earlier this year, I cosponsored bipartisan legislation, the ''Clean Power Act of 2001,'' that strictly capped national power plant emissions and ended ''grandfather'' loophole exemptions. To promote rapid and reliable changes in the utility industry, that legislation also gave utilities the regulatory tools needed to make those changes with incentives for free market trading of emissions credits, a so-called ''cap-and-trade'' mechanism. I remain a supporter of the Clean Power Act of 2001 and hope it becomes key to energy policy negotiations in Congress. However, I believe we can do even more.

So today I am introducing a second piece of legislation covering power plant emissions that I also intend to promote during the energy debate. The ''Clean Power Plant and Modernization Act of 2001'' again strictly caps emissions and ends the ''grandfather'' loophole on old plants. Instead of providing utilities the incentive of free market trading, however, my bill creates strong financial incentives, in the form of accelerated tax depreciation, for older utilities that cut emissions and upgrade their plants to 45 percent to 50 percent efficiency. With current average energy efficiency of U.S. power plants at only 33 percent, this bill is another proposal that protects the environment and public health while providing the energy industry with a comprehensive and predictable set of long-term regulatory requirements.

Under this bill, mercury emissions would be cut by 90 percent, annual emissions of sulfur dioxide would be cut by more than 6 million tons beyond Phase II Clean Air Act Amendments requirements, and nitrogen oxide emissions would be cut by more than 3 million tons per year beyond Phase II requirements. This bill would also prevent at least 650 million tons of carbon dioxide emissions per year.

And this bill goes beyond emissions caps and transition incentives to recognize the emergence of energy technologies that are more environmentally sustainable. It provides substantial funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass, geothermal, and fuel cells. It also authorizes expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

The bill emphasizes the importance of immediately capping, if not totally eliminating, the release of mercury from power plants. In December, the EPA finally determined to regulate mercury emissions from electric utility power plants, an action I strongly commended. However, such regulations are years away, and it is uncertain what form they will take. Yet, just last year, 41 states issued more than 2,200 fish consumption advisories because of mercury contamination. Eleven states, including Vermont, issued statewide advisories. In 2000, the National Academy of Sciences confirmed the health risks of mercury, emphasizing the special vulnerability of unborn and young children. I believe we need to do something now.

As the energy landscape of our nation changes, this bill also recognizes the need to train a new national energy work force. As U.S. power plants become more efficient and more power is produced by renewable technologies, less fossil fuel will be consumed. This will have an impact on the workers and communities that produce fossil fuels. These effects are likely to be greatest for coal, even with significant deployment of clean coal technology. The bill provides funding for programs to help workers and communities during the period of transition. I am eager to work with organized labor to ensure that these provisions address the needs of workers, particularly those who may not fully benefit from retraining programs.

Finally, this bill holds the electric power industry, and Congress, accountable for any and all taxpayer dollars used to aid the transition to cleaner electric generation facilities. To assess how well clean air laws and emissions reductions are working, our nation must have robust, nationwide monitoring networks capable of generating reliable, consistent, long-term data about natural ecosystems. Networks such as the National Atmospheric Deposition Program currently provide the national data needed by scientists and Federal agencies to accurately assess the trends in pollutant deposition. Yet, over the past 30 years, these networks have struggled to survive with ever-decreasing funding. My bill provides modest appropriations for both operational support and modernization of scientific sites that are so critical to understanding of our ecosystems and our public health.

The American public overwhelmingly supports the environmental commitments that we have made since the early 1970s. It is our responsibility to preserve the environment for our children and grandchildren, and it is our duty to protect their health as well. The proposed energy policy of this administration needs to be less about drilling and more about energy efficiency and protection of air quality. This bill will, I hope, add another way

in which we can ensure reliable, affordable electric power while modernizing energy efficiency and protecting our national resources.

I ask unanimous consent that the text of the bill, and the section-by-section overview of the bill be printed in the RECORD.

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

S. 1131

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Power Plant and Modernization Act of 2001''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting power plants to provide electricity;

(2) the pollution from those power plants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as ''smog'', that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life;

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce more than two-thirds of the electricity generated in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in the United States is 33 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing more than 43 tons of this potent neurotoxin each year;

(8) in 1999, fossil fuel-fired power plants in the United States produced nearly 2,200,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average, fossil fuel-fired power plants emit approximately 2,000 pounds of carbon dioxide for every megawatt hour of electricity produced;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as ''grandfathered'' power plants, are subject to much less stringent requirements;

(12) according to available scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) according to the report entitled ''Toxicological Effects of Methylmercury'' and submitted to Congress by the National Academy of Sciences in 2000, and other scientific and medical evidence, pregnant women and their developing fetuses, women of childbearing age, children, and individuals who subsist primarily on fish are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methylmercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled ''Mercury Study Report to Congress'' and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methylmercury concentrations in freshwater fish;

(B) in 2000, 41 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 2,242 in 2000, an increase of 149 percent;

(17) pollution from power plants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future; and

(19) accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition is essential for—

(A) determining deposition trends;

(B) evaluating the local and regional transport of emissions; and

(C) assessing the impact of emission reductions.

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

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of application of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and

(B) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;

(5) to establish the Clean Air Trust Fund to fund the training, economic development, carbon sequestration, and research, development, and demonstration programs established under this Act;

(6) to eliminate the ''grandfather'' loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(7) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in any climate change implementation program;

(8) to promote permanent and safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(9) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;

(10) to decrease significantly the threat to human health and the environment posed by mercury;

(11) to provide worker retraining for workers adversely affected by reduced consumption of coal;

(12) to provide economic development incentives for communities adversely affected by reduced consumption of coal;

(13) to promote research concerning renewable energy sources, clean power generation technologies, and carbon sequestration; and

(14) to promote government accountability for compliance with the Clean Air Act (42 U.S.C. 7401 et seq.) and other emission reduction laws by ensuring accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition.

SEC. 3. DEFINITIONS.

In this Act:

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

(2) GENERATING UNIT.—The term ''generating unit'' means an electric utility generating unit.

SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel).

(2) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—

(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).

(3) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 45 PERCENT EFFICIENCY.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.55 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(c) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 50 PERCENT EFFICIENCY.—Each fossil fuel-fired generating unit subject to section 4(a)(2) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.2 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) COMPLIANCE DETERMINATION AND MONITORING.—

(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this section.

(3) REPORTING.—

(A) IN GENERAL.—Not less often than quarterly, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public,

through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(f) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—

(1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—

(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period and inserting a comma; and

(C) by adding at the end the following:

''(D) solar power, and

''(E) geothermal power.'';

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''2002'' and inserting ''2016'';

(B) in subparagraph (B), by striking ''2002'' and inserting ''2016'';

(C) in subparagraph (C), by striking ''2002'' and inserting ''2016''; and

(D) by adding at the end the following:

''(D) SOLAR POWER FACILITY.—In the case of a facility using solar power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.

''(E) GEOTHERMAL POWER FACILITY.—In the case of a facility using geothermal power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.''; and

(3) by adding at the end the following:

''(5) SOLAR POWER.—The term 'solar power' means solar energy harnessed through photovoltaic systems, solar boilers which provide process heat, and any other means.

''(6) GEOTHERMAL POWER.—The term 'geothermal power' means thermal energy extracted from the earth for the purposes of producing electricity.''.

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:

''Subchapter E—Megawatt Hour Generation Fees

''Sec. 4691. Imposition of fees.

''SEC. 4691. IMPOSITION OF FEES.

''(a) TAX IMPOSED.—There is hereby imposed on each covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

''(b) ADJUSTMENT OF RATES.—Not less often than once every 2 years beginning after 2005, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

''(c) PAYMENT OF TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

''(d) COVERED FOSSIL FUEL-FIRED GENERATING UNIT.—The term 'covered fossil fuel-fired generating unit' means an electric utility generating unit which—

''(1) is powered by fossil fuels;

''(2) has a generating capacity of 5 or more megawatts; and

''(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).''.

(b) CONFORMING AMENDMENT.—The table of subchapters for such chapter 38 is amended by inserting after the item relating to subchapter D the following:

''SUBCHAPTER E. Megawatt hour generation fees.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced in calendar years beginning after December 31, 2003.

SEC. 8. CLEAN AIR TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

''SEC. 9511. CLEAN AIR TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request by the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

''(1) to provide funding under section 12 of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this section;

''(2) to provide funding for the demonstration program under section 13 of such Act, as so in effect;

''(3) to provide assistance under section 15 of such Act, as so in effect;

''(4) to provide assistance under section 16 of such Act, as so in effect; and

''(5) to provide funding under section 17 of such Act, as so in effect.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

''Sec. 9511. Clean Air Trust Fund.''.

SEC. 9. ACCELERATED DEPRECIATION FOR INVESTOR-OWNED GENERATING UNITS.

(a) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) any 45-percent efficient fossil fuel-fired generating unit.''; and

(2) by adding at the end the following:

''(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50-percent efficient fossil fuel-fired generating unit.''.

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

''(15) FOSSIL FUEL-FIRED GENERATING UNITS.—

''(A) 50-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '50-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit which is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this paragraph.

''(B) 45-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '45-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan so approved to place into service such a unit which is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.''.

(c) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable recovery period) is amended by inserting after the item relating to 10-year property the following:

''12-year property ..... 12 years''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(E) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) shall, over a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the

Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(D) of such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.

(a) IN GENERAL.—Under the Renewable Energy and Energy Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind turbine verification projects, geothermal energy conversion, and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible midsized gas turbines and baseload utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102–486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), or the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2012 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 17. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2003 through 2005 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Agriculture for each of fiscal years 2003 through 2012 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

(c) LIMITATION.—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

SEC. 18. ATMOSPHERIC MONITORING.

(a) OPERATIONAL SUPPORT.—In addition to amounts made available under any other law, there are authorized to be appropriated for each of fiscal years 2003 through 2012—

(1) for operational support of the National Atmospheric Deposition Program National Trends Network—

(A) $2,000,000 to the United States Geological Survey;

(B) $600,000 to the Environmental Protection Agency;

(C) $600,000 to the National Park Service; and

(D) $400,000 to the Forest Service;

(2) for operational support of the National Atmospheric Deposition Program Mercury Deposition Network—

(A) $400,000 to the Environmental Protection Agency;

(B) $400,000 to the United States Geological Survey;

(C) $100,000 to the National Oceanic and Atmospheric Administration; and

(D) $100,000 to the National Park Service;

(3) for the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,500,000 to the National Oceanic and Atmospheric Administration;

(4) for the Clean Air Status and Trends Network $5,000,000 to the Environmental Protection Agency; and

(5) for the Temporally Integrated Monitoring of Ecosystems and Long-Term Monitoring Program $2,500,000 to the Environmental Protection Agency.

(b) MODERNIZATION.—In addition to amounts made available under any other law, there are authorized to be appropriated—

(1) for equipment and site modernization of the National Atmospheric Deposition Program National Trends Network $6,000,000 to the Environmental Protection Agency;

(2) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Mercury Deposition Network $2,000,000 to the Environmental Protection Agency;

(3) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,000,000 to the National Oceanic and Atmospheric Administration; and

(4) for equipment and site modernization and network expansion of the Clean Air Status and Trends Network $4,600,000 to the Environmental Protection Agency.

(c) AVAILABILITY OF AMOUNTS.—Each of the amounts appropriated under subsection (b) shall remain available until expended.

SECTION-BY-SECTION OVERVIEW OF THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001

WHAT WILL THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001 DO?

The Clean Power Plant and Modernization Act of 2001 lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase power plant efficiency, reduce emissions, and encourage the use of renewable energy and clean power generation methods. The bill encourages innovation, entrepreneurship, and risk-taking. In the long term, the bill will reduce acid precipitation, decrease mercury contamination, help mitigate climate change, improve visibility, and safeguard human health.

Section 4. Combustion Heat Rate Efficiency Standards for Fossil Fuel-Fired Generating Units

Fossil fuel-fired power plants in the United States operate at an average combustion efficiency of 33%. This means that, on average, 67% of the heat generated by burning the fuel is wasted. Without changing fuels, increasing combustion efficiency is the best way to reduce carbon dioxide emissions. Section 4 lays out a phased two-stage process for increasing efficiency. In the first stage, by 10 years after enactment, all units in operation must achieve a combustion heat rate efficiency of not less than 45%. In the second stage, with expected advances in combustion technology, units commencing operation more than 10 years after enactment must achieve a combustion heat rate efficiency of not less than 50%. Carbon dioxide emission reductions on the order of 650 millions tons per year are expected, and the potential exists for even larger reductions.

If, for some unforeseen reason, technological advances do not achieve the 50% efficiency level, Section 4 contains a waiver provision that allows the owners of new units to offset any shortfall in carbon dioxide emission reductions through implementation of carbon sequestration projects.

Section 5. Air Emission Standards for Fossil Fuel-Fired Generating Units

Subsection (a) eliminates the ''grandfather'' loophole in the Clean Air Act and requires all units, regardless of when they were constructed or began operation, to comply with existing new source review requirements under Section 111 of the Clean Air Act.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standard set forth in Section 4. For mercury, 90% of the mercury contained in the fuel must be removed. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt-hour of output; fuel oil = 1.3 pounds per kilowatt-hour of output; coal = 1.55 pounds per kilowatt-hour of output). 95% of sulfur dioxide emissions and 90% of nitrogen oxide emissions are to be removed, and emissions may not exceed 0.3 pounds of sulfur dioxide and 0.15 pounds of nitrogen oxides per million BTUs of fuel consumed.

Subsection (c) sets emission standards for units that are subject to the 50% thermal efficiency standard set forth in Section 4. Standards for mercury, sulfur dioxide, and nitrogen oxides are the same as those in Subsection (b). Greater combustion efficiency results in lower emissions of carbon dioxide, and the fuel-specific emission limits are lowered accordingly (i.e., natural gas = 0.8 pounds per kilowatt-hour of output; fuel oil = 1.2 pounds per kilowatt-hour of output; coal = 1.4 pounds per kilowatt-hour of output).

Section 6. Extension of Renewable Energy Production Credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include solar power and geothermal power and to extend the renewable energy production credit through 2015. (This credit is currently set to expire in 2001.)

Section 7. Megawatt-Hour Generation Fees and Section 8. Clean Air Trust Fund

To offset the impact to the Treasury of the incentives in Sections 9 and 10, the bill establishes the Clean Air Trust Fund. The Trust Fund is similar to the Highway Trust Fund or the Superfund. The revenue for the Trust Fund will be provided by assessing a fee of 30 cents per megawatt-hour of electricity produced by covered electric generating units.

The Trust Fund will also be used to pay for assistance to workers and communities adversely affected by reduced consumption of coal, research and development for renewable power generation technologies (e.g., wind, solar, and biomass), and carbon sequestration projects.

Section 9. Accelerated Depreciation for Investor-Owned Generating Units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20 year period. Section 9 amends Section 168 of the Internal Revenue Code of 1986 to allow for depreciation over a 15 year period for units meeting the 45% efficiency level and the emission standards in Section 5(b). Section 9 also amends Section 168 to allow for depreciation over a 12 year period for units meeting the 50% efficiency level and the emission standards in Section 5(c).

Section 10. Grants for Publicly Owned Generating Units

No federal taxes are paid on publicly-owned generating units. To provide publicly-owned utilities with comparable incentives to modernize, Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be realized by a similarly situated investor-owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) would receive annual grants over a 15 year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12 year period.

Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emission standards in the bill, or through replacement with non-polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress.

Section 12. Renewable and Clean Power Generation Technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, and wind technologies. Types of projects may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, biomass modular systems, next-generation wind turbines and wind verification projects, and geothermal energy conversion.

Section 13. Clean Coal, Advanced Gas Turbine, and Combined Heat and Power Demonstration Program

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from clean coal technologies, advanced gas turbine technologies, and combined heat and power technologies.

Section 14. Evaluation of Implementation of This Act and Other Statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the Clean Power Plant and Modernization Act. The report shall identify any provisions of other laws that conflict with the efficient implementation of the Clean Power Plant and Modernization Act. The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for Workers Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to coal industry workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community Economic Development Incentives for Communities Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon Sequestration

This section authorizes $45 million over 3 years for DOE to conduct research and development in support of a national carbon sequestration strategy. This section also authorizes $300 million over 10 years for EPA and USDA to fund carbon sequestration projects such as soil restoration, tree planting, wetlands protection, and other ways of biologically sequestering carbon.

Section 18. Atmospheric Monitoring

This section authorizes $13.6 million over 10 years to support the operation of existing instrument networks that monitor the deposition of sulfates, nitrates, mercury, and other pollutants, as well as the effects of these pollutants of ecosystem health. This section also authorizes a one-time expenditure of $13.6 million for equipment modernization for these instrument networks.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAPO. Mr. President, I rise today to introduce a bill designed to

prevent a serious disruption in the distribution of prescription drugs across America. Unless changed by this legislation, or modified by the agency itself, a regulation issued by the Food and Drug Administration will drive out of business thousands of small and medium sized drug wholesalers. Tens of thousands of small nursing homes, clinics, doctor's offices, drug stores, and veterinary practices, especially in rural areas, would be forced to find new suppliers of prescription drugs, who would almost certainly charge higher prices. Consumers, especially the sickest and the least able to pay, would be even further hard-pressed to afford the prescription drugs they need to maintain their health.

There is no real health or safety reason behind the FDA's action, which is simply a lack of understanding of how the wholesale distribution of drugs actually works. The agency's regulation would complete the implementation of the Prescription Drug Marketing Act, which was enacted in April 1988. That statute, which was designed to stop the misuse of drug samples, prevent various types of resale fraud, stop the importation of counterfeit drugs, and establish minimum national standards for the storage and handling of drugs by wholesalers, has worked well.

However, the FDA's regulation, which will go into effect on April 1, 2001, created two problems for wholesalers, neither of which were present when the agency issued its initial policy guidance on the statute in 1988. The first problem relates to the sales history of drug products which wholesalers must provide their customers. A wholesaler who does not purchase directly from a manufacturer must provide their customer with a detailed history of all prior sales of that product back to the wholesaler who did purchase the drugs from the manufacturer. This provision was designed to prevent the introduction of counterfeits or other drugs from questionable or unknown sources into the marketplace. The FDA's initial guidance was that resellers who did not purchase drugs directly from a manufacturer had to trace the product back to the wholesaler who did purchase directly from the manufacturer. This wholesaler is known as an authorized distributor.

Not withstanding the fact that this system has produced a drug distribution system of exceptional quality, the FDA has changed its mind as to what the statute required and proposed that a reseller now be required to trace the product history all the way back to the manufacturer. At the same time, however, the agency also concluded that the statute does not require either the manufacturer or the authorized distributor to provide this sales history to the secondary reseller. But without this very detailed sales history, it will be illegal for the secondary wholesaler to resell products. Since it is economically and logistically impractical for manufacturers or authorized distributors to keep track of the huge volume of product in the extreme detail required by the FDA rule, thousands of secondary wholesalers will be forced to cease business.

Fortunately, there is a simple solution. In 1990, the FDA finalized a regulation implementing another part of the PDMA, which requires wholesalers to keep very detailed records of all purchases, sales, or other dispositions of the drugs they obtain. These records, which are very similar to the detailed sales history in the FDA's latest regulation, are also subject to audit by the agency, by state regulators, and must be made available to law enforcement agencies if needed. Thus, there is really no need for a secondary wholesaler to try and assemble the detailed and virtually unobtainable sales history now demanded by the FDA and to pass it on to their customers. Instead, the bill I am introducing today requires only that secondary wholesalers provide a written statement to their customers that the drug products were first purchased from a manufacturer or authorized distributor. Substituting the written statement would prevent a serious disruption in the wholesale drug sector while preserving the original intent of the PDMA, which was to guard the network of licensed and inspected wholesalers from counterfeits or drugs from questionable sources. It would be a simple matter for a secondary wholesaler to determine that a shipment of drugs was first purchased by an authorized wholesaler, and the written statement would be subject to criminal penalties if falsified under existing law. Substituting the written statement for the paper trail requirement would also reduce selling costs, which could be passed on to the consumer.

This bill is a companion to H.R. 68, introduced on January 3, 2001, by Representatives JO ANN EMERSON and MARION BERRY. That bill now has 45 cosponsors who represent an especially diverse geographical and ideological cross section of the House and is supported by nine major trade and professional organizations representing most companies that wholesale or retail prescription drugs in the U.S. I invite my colleagues in the Senate to add their names to this commonsense measure.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last week the Bush Administration eliminated the only nonstop air service between Los Angeles International Airport, LAX, and National Airport, DCA, in Washington, DC. The elimination of the flight makes Los Angeles the largest U.S. city without nonstop air service to this vital airport in the Nation's capital.

Since the DCA to lax flight began 10 months ago, 45,000 passengers have taken the flight. Not only is it popular, but many small and mid-sized communities throughout the state, including Bakersfield, Fresno, Monterey, and San Luis Obispo, rely on this flight. They have connecting flights into LAX specifically designed so that passengers can take the LAX–DCA nonstop flight. These communities will suffer because of this decision.

This happened because TWA, which operated the flight, went bankrupt. Even though American Airlines purchased the assets of TWA and was willing to continue the flight, the Administration gave the LAX slot at National Airport to another city.

This was an unfortunate decision, and one that was both unnecessary and unjustified. Therefore, today, I am introducing legislation to reinstate the service. It is narrowly crafted to address the unique situation we have here.

My bill only applies in cases where a community loses service to DCA because the airline operating the flight went bankrupt. In those cases, the air carrier that purchases the assets of the bankrupt airlines has a right to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airport.

In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

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

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create high wage jobs, and ensure American competitiveness into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital.

Because this incentive applies to founders stock and employee stock options, and not just stock offered to outside investors, it provides a powerful

incentive for the human infrastructure and culture that drives and grows our nation's entrepreneurial firms.

This legislation could not be more timely given the drought we see in equity capital for entrepreneurs. Nationwide we saw 850 Initial Public Offerings of stock, IPOs, in 1996, 610 in 1997, 362 in 1998, 501 in 1999, and 379 in 2000. So far in 2001 we have seen only 50. The total value of these offerings was $47 billion in 1996, $39 billion in 1997, $37 billion in 1998, $53 billion in 1999, and $54 billion in 2000. So far in 2001, it's only $20 billion. Entrepreneurs are starved for capital and this incentive is tailor made to provide an incentive to investors to provide it to them.

The details of our proposal are straight forward. They call for a 100 percent exclusion, a zero capital gains rate, for new, direct, long-term investments in the stock of a small corporation. ''New'' means that the stock must be offered after the effective date of the bill and does not apply to sale of previously acquired equity shares. ''Direct'' means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPOs, and subsequent public stock offerings. ''Long-term'' means the stock must be held for three years. ''Stock'' includes any type of stock, including convertible preferred shares. ''Small corporation'' means a corporation with $300 million or less in capitalization (not valuation, but paid-in capital). The incentive applies to both individual and corporate taxpayers. And the excluded gains are not a preference item for the Alternative Minimum Tax.

I am pleased that Senator HATCH has agreed to serve as the lead cosponsor of the legislation. He and I worked closely together from 1995 through 1997 to restore the capital gains incentive. There were many Members involved with that effort, but Senator HATCH and I were pleased to be the leaders of the legislative coalition that proved to be so effective. Our work now on this venture capital gains legislation is a continuation of that long and successful partnership.

I am pleased that Representatives JENNIFER DUNN and ROBERT MATSUI are introducing the same bill in the other body.

I have long championed this approach to capital gains incentives. Most recently, this proposal was included as Section 4 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. The first proposal on this subject was introduced on April 7, 1987 in the 100th Congress by Senator Dale Bumpers as S. 932. I was an early supporter of this proposal and I cosponsored a version of this proposal introduced in 1991 by Senator Bumpers as S.1932. A version of that bill was enacted as part of the 1993 tax bill, Section 1202, but it was laden with technical requirements that limited its effectiveness. In the 104th Congress sent amendments to strengthen Section 1202 to President Clinton in the tax bill vetoed he vetoed in 1996. In the 105th Congress these amendments were included in all of the key capital gains, including S. 2 (Roth), S. 20 (DASCHLE), S. 66 (HATCH-LIEBERMAN), S. 501 (Mack), and S. 745 (Bumpers). These amendments were sent to the conference on that bill but did not emerge from it. A broad-based capital gains incentive, which I supported, was enacted into law and a rollover provision was enacted with regard to Section 1202 stock. In the 106th Congress, amendments to strengthen Section 1202 were introduced in the House by Representatives JENNIFER DUNN and BOB MATSUI, H.R. 2331. Then I introduced the incentive as part of S. 798 and we are today introducing it again as a stand-alone bill.

Today I am pleased to cosponsor S. 818, the capital gains proposal introduced by Senator HATCH and TORRICELLI and others. That proposal calls for a reduction in the current 20 percent capital gains tax rate for a broad class of investments, simplifies the capital gains tax, and provides special benefits to low income taxpayers. This bill and the bill we introduce today are complementary and should both be enacted.

I recognize that the Joint Committee on Taxation, which determines the ''cost'' of all tax proposals, will determine that our proposal today, and S. 818, will lose revenue. I believe this finding to be short-sighted given the dramatic effect that these incentives will have on entrepreneurs and therefore on economic growth, but there is no way to appeal these determinations. There is no revenue remaining available under the budget resolution to tap to finance these proposals. Accordingly, I fully accept the obligation to find a way to pay for these and other tax proposals, an offset, so that we do not adversely affect the deficit.

The reasons for setting a special capital gains rate for venture capital are compelling. Entrepreneurial firms are the ones which can dramatically change our whole health care system, clean up our environment, link us in international telecommunication networks, and increase our capacity to understand our world. The firms are founded by dreamers, adventurers, and risk-takers who embody the best we have to offer in our free-enterprise economy.

Entrepreneurship drives growth and small, emerging companies need capital investment to innovate, create jobs, and create wealth. According to the National Commission on Entrepreneurship, a small subset of entrepreneurial firms that comprise only 5–15 percent of all U.S. businesses created about two-thirds of new jobs between 1993–96. Although venture capital is critical to the transition from a fledgling company to a growth company, only a small share of it is associated with small and new firms. In addition, we are currently experiencing a venture capital slow down that makes it even more difficult for small and new firms to attract capital. According to the National Venture Capital Association, NCVA, investment in the fourth quarter of last year slowed by more than 30 percent from the previous quarter.

The primary goal of the Productivity, Opportunity, and Prosperity Act and this venture capital incentive is to protect, stimulate and expand economic growth. Government's role is not to create jobs but to help create the environment in which the private sector will create jobs. This legislation helps to create the right context for private sector growth by providing incentives for investment in training, technology, and small entrepreneurial firms. These investments are critical to economic growth and the creation of jobs and wealth.

The Productivity, Opportunity, and Prosperity Act of 2001, including this venture capital proposal, is a tax plan with a purpose. And that purpose is, above all else, to stimulate private sector economic growth, to raise the tide that lifts the lot of all Americans. In the spirit of the ''New Economy,'' where the fundamentals of our economy have changed through entrepreneurship and innovation, this package includes business tax incentives that will spur the real drivers of growth: innovation, investment, a skilled workforce, and productivity.

Ten years from now we will be judged by the economic policy decisions we make today. People will ask, did we fully understand the awesome changes taking place in our economy and in our society? Did we give our industry and workers the environment and the tools they need to seize the opportunities that an innovation economy offers? I believe that a true Prosperity Agenda is within our grasp. Never before has America been in a stronger position, economically, socially, or politically, to shape our future. But it will take strong and focused leadership. I am confident that if we in the public sector in Washington work in partnership with the private sector throughout our country, we can truly say of America's future that the best is yet to come. I believe that the Productivity, Opportunity, and Prosperity Act and this venture capital incentive are an important step toward that future.

Mr. President, I ask unanimous consent that the text of the bill and section analysis be printed in the RECORD.

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

S. 1134

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 ''Venture Capital Gains and Growth Act of 2001''.

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) of such Code is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(b) INCREASE IN ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.—Subsections (a)(1) and (b)(3) of section 1045 of the Internal Revenue Code of 1986 (relating to rollover of gain from qualified small business stock to another qualified small business stock) are each amended by striking ''60-day'' and inserting ''180-day''.

(c) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking ''5 years'' and inserting ''3 years''.

(2) CONFORMING AMENDMENT.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code are each amended by striking ''5 years'' and inserting ''3 years''.

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1202(b) of the Internal Revenue Code of 1986 (relating to per-issuer limitations on taxpayer's eligible gain) is repealed.

(e) QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (relating to qualified trade or business) is amended by inserting '', and is anticipated to continue to be,'' before ''the reputation'' in subparagraph (A).

(f) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Section 1202(e)(6) of the Internal Revenue Code of 1986 (relating to working capital) is amended—

(A) in subparagraph (B), by striking ''2 years'' and inserting ''5 years''; and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of such Code (relating to certain purchases by corporation of its own stock) is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.''.

(g) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to 50-percent exclusion for gain from certain small business stock) is amended by striking ''50 percent'' and inserting ''100 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 1(h)(5) of such Code is amended to read as follows:

''(A) collectibles gain, over''.

(B) Section 1(h) of such Code is amended by striking paragraph (8).

(C) Paragraph (9) of section 1(h) of such Code is amended by striking '', gain described in paragraph (7)(A)(i), and section 1202 gain'' and inserting ''and gain described in paragraph (7)(A)(i)''.

(D) Section 1(h) of such Code is amended by redesignating paragraphs (9) (as amended by subparagraph (C)), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively.

(E) The heading for section 1202 of such Code is amended by striking ''**PARTIAL**'' and inserting ''**100-PERCENT**''.

(F) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking ''Partial'' in the item relating to section 1202 and inserting ''100-percent''.

(h) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking ''other than a corporation''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 of such Code is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.''.

(i) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) IN GENERAL.—Paragraph (1) of section 1202(d) of the Internal Revenue Code of 1986 (defining qualified small business) is amended by striking ''$50,000,000'' each place it appears and inserting ''$300,000,000''.

(2) INFLATION ADJUSTMENT.—Section 1202(d) of such Code (defining qualified small business) is amended by adding at the end the following:

''(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 2002, the $300,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

Description of Venture Capital Gains Incentive

Section 1202 enacted in 1993:

50% capital gains exclusion for new investments—not sale of previously acquired assets—new investments made after effective date, August 1993.

Only if investments made directly in stock—not secondary trading, founders stock, stock options, venture capital, public offerings, common, preferred, convertible preferred.

Only if made in stock of a ''small corporation''—defined as a corporation with $50 million or less in capitalization—ceiling not indexed for inflation.

Only if investment held for five years.

Only if investment made by an individual taxpayer—not by a corporate taxpayer.

50% of the excluded gains not covered by the Alternative Minimum Tax (AMT).

Limit on benefits per taxpayer of ''10 times basis or $10 million, whichever is greater''.

Technical problems—redemption of stock, ''spending speed-up'' provision.

Section 1045 enacted in 1997:

Permits investors in Section 1202 stock to roll over their investments in a new Section 1202 investment without ''realizing'' gains and paying taxes within 60 days.

Nine proposed amendments to Section 1202 and Section 1045:

(1) Sets a zero capital gains rate, compared to the 20 percent rate for other capital gains investments.

Only new investments—same.

Only if direct investments—same.

Only if investment in stock—same.

(2) Apply to corporate taxpayers—now only applies to individual taxpayers.

(3) Define ''small corporation'' as one with $300 million in capitalization and index for inflation—up from $50 million with no indexing.

(4) 100 percent exemption from AMT—now 50 percent exemption.

(5) Increase the time permitted to roll over a Section 1202 investment into another Section 1202 investment to 180 days.

(6) Only if investment held for three years—reduction from five years.

(7) Delete ''10 times or $10 million'' limitation.

(8) Extend coverage of Section 1202 to additional corporations.

(9) Fix technical problems—modify redemption of stock, ''spending speed-up'' provision.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELELR, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today joined by my colleagues to introduce the Medicare Reform Act of 2001.

Today we are in the midst of a major health-care debate on the Patients' Bill of Rights. This crucial bill should be the beginning, not end, of reform in the health care system. Now we need to take this momentum and turn to Medicare reform.

Reform is not a word to be tossed around lightly. When we bat around the term Medicare reform, this is what we need to be talking about, ideas that go to the very heart of the existing Medicare program and reform it.

The Medicare Reform Act offers such ideas. It keeps what is best about Medicare intact. Under this bill the program will remain, as it has always been, reliable and affordable. But the Medicare Reform Act also does just what it says. It reforms the program to reflect new realities both scientific and economic, that the program's creators could not possibly have planned for in 1965.

One of these realities is that prescription drugs are a crucial part of any modern health care regime. In fact it is unthinkable that prescription drugs would be excluded if Medicare were created today.

The Medicare Reform Act offers a benefit that, like the existing Medicare program, is both affordable and available for all seniors, regardless of income. The benefit also harnesses the power of today's competitive health care marketplace to keep costs down and offer seniors choices.

Perhaps most importantly, the benefit offered by the Medicare Reform Act has no gaps, no caps and no gimmicks.

This is our line-in-the-sand.

Other plans being discussed have major gaps.

Let's look at one: the bill the House Republicans passed last year offers seniors a benefit of a scant $1,050-a year.

Once they hit that cap, coverage stops. It picks up again only if the beneficiary spends $6,000 a year.

Imagine this scenario: An 85-year-old woman pays her monthly prescription drug premium. For the first 6 months of the year, she goes to the drugstore each month to pick up her cholesterol medication and pays $25.

But then she comes to the 7th month, and has hit her benefit cap. Now she has to pay $50 for the same prescription. She's still paying her premium, but she's getting no benefit. Under this benefit, Medicare says ''Sorry. Can't help. Come see me if you have a catastrophe.''

I call plans like this donuts, substance around the edges, giant hole in the middle. I also call them pointless. Who needs insurance you can't be sure of?

No caps, no gaps, no gimmicks. That is set in stone. What is not set is stone is the exact level of the coinsurance or deductible. We're going to be listening to seniors as we move toward a markup, and if we hear they would prefer a lower premium in exchange for higher cost-sharing, we can turn those dials, as long as it's within the parameter of $300 billion.

In structure, the Medicare Reform Act represents a true compromise. It takes the best ideas of all engaged in this issue.

One school of thought has been that the private sector is best equipped to offer an affordable prescription drug benefit.

We agree, up to a point. We do not believe that private insurers should assume all of the risk for this benefit. We do not believe this because private insurers have told us they want no part of this type of system. And we know that we can pass all the laws we want, but we can't make private companies take on Medicare patients.

Rather than foreign the private sector to attempt to do something they do not want to do, we take advantage of the fact that we already have an efficient, workable mechanism in place. That mechanism is the pharmacy benefit manager of PBM. These businesses operate successfully today in every ZIP code of the country. They are in a perfect position to manage the Medicare prescription drug benefit—and to offer seniors a choice.

The Medicare Reform Act would allow multiple PBMs in each geographic region to administer, manage and deliver the prescription drug benefit. They would be allowed to use all of the methods they use currently in the private sector to provide benefits economically, including the use of formularies, preferred pharmacy networks, and generic drug substitution. Additionally, PBMs would be allowed to use mechanisms to encourage beneficiaries to select cost-effective drugs, including the use of disease management and therapeutic interchange programs.

Beneficiareis in every part of the country would have access to coverage provided by PBMs that would not assume full insurance risk for drug costs. In this way, adverse selection and inappropriate incentives would be avoided.

However, to ensure that PBMs pursue and are held accountable for high quality beneficiary services, improved health outcomes, and managing costs, we require PBMs to put a substantial portion of their management fees at risk for their performance. Performance goals would include price discounts and generic substitution rates, timely action with regard to appeals, sustained pharmacy network access and notifications to avoid adverse drug reactions.

Although all PBMs would be required to offer the standard benefit at a minimum, payments received on the basis of their performance could be used to reduce beneficiary cost-sharing or to waive the deductible for generic drugs.

Requiring PBMs to share risk provides a middle ground between proposals that have included no risk being assumed by the private sector, and proposals that have required the assumption of insurance and selection risk for the cost of drugs.

This arrangement would bring us the benefits of private sector competition without the instabilities that would be associated with a full risk-bearing model. It would take advantage of the fact that the private sector has provided an efficient, workable, stable system for the delivery of prescription drugs, and the management of drug costs, and would allow beneficiaries to choose between multiple vendors.

Prescription drugs are not all that is missing from Medicare.

We live in a world of near miracles. We can stop disease in its track. We can keep a health problem from becoming a health crisis. We can make the lives our seniors better. We can make their bodies stronger. We have the technology.

It's time to let our seniors have it as well.

The ''Medicare Reform Act'' would shift the focus of Medicare from simply treating illness to promoting wellness.

Several proven-effective preventive benefits, like cholesterol screening and smoking cessation counseling, would be added to package. These benefits could save lives.

We also provide a new process for changes to the preventive benefit package. As a member of the Finance Committee, I have sat through hours-long discussions on coverage of screening for colorectal cancer. I've heard debated the relative benefits of barium x-rays v. colonscopies in minute details. I'm not qualified to make these decisions. A new ''fast-track'' process would move members of Congress out of the picture of making decisions about the clinical and scientific merits of different benefits, and move the doctors and scientists in.

The Medicare Reform Act is not just about adding benefits. It's also about changing the way we do business.

We've looked to the private sector for lessons on how to run the fee-for-service program. We allow Medicare to use the same competitive tools insurance companies have in place to control costs. This will save the Medicare program money, in contrast to some other competition proposals.

We've looked to the private sector and learned that to serve seniors and providers better, we need to make an investment in the program, and provide additional administrative funds. Our bill gives the agency responsible for these programs the money to truly serve their clients, our seniors.

We've turned again to the medical and scientific experts. We've taken the decision about what Medicare should and shouldn't cover out of the hands of bureaucrats and given it to independent medical, clinical and scientific experts who have the skills to assess new technologies and procedures.

We also need to prepare for the future. The Medicare program is in the best shape it has been in over a quarter century. But, the baby-boomers are going to be joining the program soon.

We need to begin to fortify the program now, so that we are ready for them. Our bill takes modest steps in that direction by indexing the Part B deductible to inflation, and providing the Part B premium subsidy on a sliding scale basis.

While I think we need to spend the lion's share of our efforts on reforming the part of the program with the lion's share of the beneficiaries, we also need to take a close look at the Medicare+Choice program. There are several different proposals on the table to replace the current payment system with one based on competitive bidding, and we face a lot of questions regarding which of the proposals would work best.

In 1997, Senators BREAUX and Mack proposed a Medicare Competitive Pricing Demonstration Project; the Project was included in the Balanced Budget Act. The purpose of the demonstration project was to test a new method of paying plans based on a competitive market approach. It has not yet been implemented.

This demonstration project is exactly what we need to learn how to design and implement a competitive system. It is not sound to undertake a wholesale restructuring of the Medicare+Choice system without knowing what would, and would not, work.

The ''Medicare Reform Act of 2001'' would lay the groundwork for a sound, workable, competitive system by moving forward with the Demonstration project in the state of Florida.

Taken together these disparate pieces represent real reform.

Before the recess, I hope we will have passed legislation to protect basic rights of managed-care patients.

Then we need to pick up that ball and run with it.

The time is now. The money is there. The plan exists. Our seniors are waiting.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr. CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, I rise today to introduce legislation to help protect our nation's natural resources and improve the visitor experience in our National Parks and Wildlife Refuges. The Transit in Parks Act, or ''TRIP,'' will establish a new Federal transit grant initiative to support the development of mass transit and alternative transportation services for our national parks, wildlife refuges, Federal recreational areas, and other public lands. I am pleased to be joined by Senators BAUCUS, BAYH, CLELAND, CORZINE, DODD, FEINSTEIN, REID, SCHUMER, SNOWE, STABENOW, THOMPSON, and WYDEN, who are cosponsors of this legislation.

Let me begin with a little history. When the National parks first opened in the second half of the nineteenth century, visitors arrived by stagecoach along dirt roads. Travel through parklands, such as Yosemite or Yellowstone, was long, difficult, and costly. Not many people could afford or endure such a trip. The introduction of the automobile gave every American greater mobility and freedom, which included the freedom to travel and see some of our Nation's great natural wonders. Early in this century, landscape architects from the National Park Service and highway engineers from the U.S. Bureau of Public Roads collaborated to produce many feats of road engineering that opened the National park lands to millions of Americans.

Yet greater mobility and easier access now threaten the very environments that the National Park Service is mandated to protect. The ongoing tension between preservation and access has always been a challenge for our national park system. Today, record numbers of visitors and cars has resulted in increasing damage to our parks. The Grand Canyon alone has almost five million visitors a year. As many as 6,000 vehicles arrive in a single summer day. They compete for 2,400 parking spaces. Between 32,000 and 35,000 tour buses go to the park each year. During the peak summer season, the entrance route becomes a giant parking lot.

In 1975, the total number of visitors to America's national parks was 190 million. By 1999, that number has risen to 287 million annual visitors, almost equal to one visit by every man, woman, and child in this country. This dramatic increase in visitation has created an overwhelming demand on these areas, resulting in severe traffic congestion, visitor restrictions, and in some instances vacationers being shut out of the parks altogether. The environmental damage at the Grand Canyon is visible at many other pars: Yosemite, which has more than four million visitors a year; Yellowstone, which has more than three million visitors a year and experiences such severe traffic congestion that access has to be restricted; Zion; Acadia; Bryce; and many others. We need to solve these problems now or risk permanent harm to our nation's natural, cultural, and historical heritage.

Visitor access to the parks is vital not only to the parks themselves, but to the economic health of their gateway communities. For example, visitors to Yosemite infuse $3 billion a year into the local economy of the surrounding area. At Yellowstone, tourists spend $725 million annually in adjacent communities. Wildlife-related tourism generates an estimated $60 billion a year nationwide. If the parks are forced to close their gates to visitors due to congestion, the economic vitality of the surrounding region would be jeopardized.

The challenge for park management has always been twofold: to conserve and protect the Nation's natural, historical, and cultural resources, while at the same time ensuring visitor access and enjoyment of these sensitive environments. Until now, the principal transportation systems that the Federal Government has developed to provide access into our national parks are roads, primarily for private automobile access. The TRIP legislation recognizes that we need to do more than simply build roads; we must invest in alternative transportation solutions before our national parks are damaged beyond repair.

In developing solutions to the parks' transportation needs, this legislation builds upon the 1997 Memorandum of Understanding between Secretary of Transportation Rodney Slater and Secretary of the Interior Bruce Babbitt, in which the two Departments agreed to work together to address transportation and resource management needs in and around National Parks. The findings in the MOU are especially revealing: Congestion in and approaching many National Parks is causing lengthy traffic delays and backups that substantially detract from the visitor experience. Visitors find that many of the National Parks contain significant noise and air pollution, and traffic congestion similar to that found on the city streets they left behind. In many National Park units, the capacity of parking facilities at interpretive or scenic areas is well below demand. As a result, visitors park along roadsides, damaging park resources and subjecting people to hazardous safety conditions as they walk near busy roads to access visitor use areas. On occasion, National Park units must close their gates during high visitation periods and turn away the public because the existing infrastructure and transportation systems are at, or beyond, the capacity for which they were designed.

In addition, the TRIP legislation is designed to implement the recommendations from a comprehensive study of alternative transportation needs in public lands that I was able to include in the Transportation Equity Act for the 21st Century, TEA–21, as section 3039. The study is nearing completion, and is expected to confirm what those of us who have visited our National parks already know: there is a significant and well-documented need for alternative transportation solutions in the national parks to prevent lasting damage to these incomparable natural treasures.

The Transit in Parks Act will go far toward meeting this need. The bill's objectives are to develop new and expanded mass transit services throughout the national parks and other public lands to conserve and protect fragile natural, cultural, and historical resources and wildlife habitats, to prevent or mitigate adverse impact on those resources and habitats, and to reduce pollution and congestion, while at the same time facilitating appropriate visitor access and improving the visitor experience.

The new Federal transit grant program will provide funding to the Federal land management agencies that manage the 379 various sites within the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands, and to their state and local partners. The program will provide capital funds for transit projects, including rail or clean fuel bus projects, joint development activities, pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. The bill authorizes $65 million for this new program for each of the fiscal years 2002 through 2007. It is anticipated that other resources, both public and private, will be available to augment these amounts.

The bill formalizes the cooperative arrangement in the 1997 MOU between the Secretary of Transportation and the Secretary of the Interior to exchange technical assistance and to develop procedures relating to the planning, selection and funding of transit projects in national park lands. The bill further provides funds for planning, research, and technical assistance that can supplement other financial resources available to the Federal land management agencies. The projects eligible for funding would be developed through the TEA–21 planning process and prioritized for funding by the Secretary of the Interior in consultation and cooperation with the Secretary of Transportation. It is anticipated that the Secretary of the Interior would select projects that are diverse in location and size. While major National

parks such as the Grand Canyon or Yellowstone are clearly appropriate candidates for significant transit projects under this section, there are numerous small urban and rural Federal park lands that can benefit enormously from small projects, such as bike paths or improved connections with an urban or regional public transit system. No single project will receive more than 12 percent of the total amount available in any given year. This ensures a diversity of projects selected for assistance.

In addition, I firmly believe that this program will create new opportunities for the Federal land management agencies to partner with local transit agencies in gateway communities adjacent to the parks, both through the TEA–12 planning process and in developing integrated transportation systems. This will spur new economic development within these communities, as they develop transportation centers for park visitors to connect to transit links into the national parks and other public lands.

The ongoing tension between preservation and access has always been a challenge for the National Park Service. Today, that challenge has new dimensions, with overcrowding, pollution, congestion, and resource degradation increasing at many of our national parks. This legislation—the Transit in Parks Act—will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact. At the same time, transit can enhance the economic development potential of our gateway communities.

As we begin a new millennium, I cannot think of a more worthy endeavor to help our environment and preserve our national parks, wildlife refuges, and Federal recreational areas than by encouraging alternative transportation in these areas. My bill is strongly supported by the American Public Transportation Association, the National Parks Conservation Association, Environmental Defense, Community Transportation Association, Friends of the Earth, National Association of Counties, American Planning Association, Surface Transportation Policy Project, Smart Growth America, Scenic America, National Center for Bicycling and Walking, National Association of Railroad Passengers, Great American Station Foundation, and others.

Mr. President, I urge my colleagues to support this important legislation and to recognize the enormous environmental and economic benefits that transit can bring to our national parks.

I ask unanimous consent that the bill, a section-by-section analysis, and letters of support be printed in the RECORD.

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

S. 1136

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 ''Transit in Parks Act'' or the ''TRIP Act''.

SEC. 2. FEDERAL LAND TRANSIT PROGRAM.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5315 the following:

''§ 5316. Federal land transit program

''(a) FINDINGS AND PURPOSES.—

''(1) FINDINGS.—Congress finds that—

''(A) section 3039 of the Transportation Equity Act for the 21st Century (23 U.S.C. 138 note; Public Law 105–178) required a comprehensive study, to be conducted by the Secretary of Transportation, in coordination with the Secretary of the Interior, of alternative transportation needs in national parks and related public lands in order to—

''(i) identify the transportation strategies that improve the management of national parks and related public lands;

''(ii) identify national parks and related public lands that have existing and potential problems of adverse impact, high congestion, and pollution, or that can otherwise benefit from alternative transportation modes;

''(iii) assess the feasibility of alternative transportation modes; and

''(iv) identify and estimate the costs of those alternative transportation modes;

''(B) many national parks are experiencing increased visitation and congestion and degradation of the natural, historical, and cultural resources;

''(C) there is a growing need for new and expanded mass transportation services throughout national parks to conserve and protect fragile natural, historical, and cultural resources, prevent adverse impact on those resources, and reduce pollution and congestion while facilitating appropriate visitor mobility and accessibility and improving the visitor experience;

''(D) the Department of Transportation can assist the Federal land management agencies through financial support and technical assistance and further the achievement of national goals to—

''(i) enhance the environment;

''(ii) improve mobility;

''(iii) create more livable communities;

''(iv) conserve energy; and

''(v) reduce pollution and congestion in all regions of the country;

''(E) immediate financial and technical assistance by the Department of Transportation, working with Federal land management agencies and State and local governmental authorities to develop efficient and coordinated mass transportation systems within and in the vicinity of eligible areas, is essential to—

''(i) protect and conserve natural, historical, and cultural resources;

''(ii) prevent or mitigate adverse impacts on those resources;

''(iii) relieve congestion;

''(iv) minimize transportation fuel consumption;

''(v) reduce pollution (including noise pollution and visual pollution); and

''(vi) enhance visitor mobility, accessibility, and the visitor experience; and

''(F) it is in the interest of the United States to encourage and promote the development of transportation systems for the betterment of eligible areas to meet the goals described in clauses (i) through (vi) of subparagraph (E).

''(2) PURPOSES.—The purposes of this section are—

''(A) to develop a cooperative relationship between the Secretary of Transportation and the Secretary of the Interior to carry out this section;

''(B) to encourage the planning and establishment of mass transportation systems and nonmotorized transportation systems needed within and in the vicinity of eligible areas, located in both urban and rural areas, that—

''(i) enhance resource protection;

''(ii) prevent or mitigate adverse impacts on those resources;

''(iii) improve visitor mobility, accessibility, and the visitor experience;

''(iv) reduce pollution and congestion;

''(v) conserve energy; and

''(vi) increase coordination with gateway communities;

''(C) to assist Federal land management agencies and State and local governmental authorities in financing areawide mass transportation systems and nonmotorized transportation systems to be operated by public or private mass transportation providers, as determined by local and regional needs, and to encourage public-private partnerships; and

''(D) to assist in research concerning, and development of, improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private companies and other entities engaged in the provision of mass transportation service.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE AREA.—

''(A) IN GENERAL.—The term 'eligible area' means any Federally owned or managed park, refuge, or recreational area that is open to the general public.

''(B) INCLUSIONS.—The term 'eligible area' includes—

''(i) a unit of the National Park System;

''(ii) a unit of the National Wildlife Refuge System; and

''(iii) a recreational area managed by the Bureau of Land Management.

''(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

''(3) MASS TRANSPORTATION.—

''(A) IN GENERAL.—The term 'mass transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis.

''(B) INCLUSIONS.—The term 'mass transportation' includes sightseeing service.

''(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

''(A) a Federal land management agency; or

''(B) a State or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency,

alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

''(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

''(A) is an activity described in section 5302(a)(1), 5303(g), or 5309(a)(1)(A);

''(B) involves—

''(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

''(ii) the deployment of mass transportation vehicles that introduce innovative technologies or methods;

''(C) relates to the capital costs of coordinating the Federal land management agency mass transportation systems with other mass transportation systems;

''(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

''(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with the purposes described in subsection (a)(2); or

''(F) is any other mass transportation project that—

''(i) enhances the environment;

''(ii) prevents or mitigates an adverse impact on a natural resource;

''(iii) improves Federal land management agency resource management;

''(iv) improves visitor mobility and accessibility and the visitor experience;

''(v) reduces congestion and pollution (including noise pollution and visual pollution); and

''(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a nontransportation facility).

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

''(1) technical assistance in mass transportation;

''(2) interagency and multidisciplinary teams to develop Federal land management agency mass transportation policy, procedures, and coordination; and

''(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

''(d) TYPES OF ASSISTANCE.—

''(1) IN GENERAL.—The Secretary may enter into a contract, grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section.

''(2) OTHER USES.—A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in mass transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

''(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

''(1) IN GENERAL.—The Secretary may allocate not more than 5 percent of the amount made available for a fiscal year under section 5338(j) for use by the Secretary in carrying out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

''(2) AMOUNTS FOR PLANNING, RESEARCH, AND TECHNICAL ASSISTANCE.—Amounts made available under this subsection are in addition to amounts otherwise available for planning, research, and technical assistance under this title or any other provision of law.

''(3) AMOUNTS FOR QUALIFIED PROJECTS.—No qualified project shall receive more than 12 percent of the total amount made available under section 5338(j) for any fiscal year.

''(f) PLANNING PROCESS.—In undertaking a qualified project under this section—

''(1) if the qualified participant is a Federal land management agency—

''(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

''(i) the metropolitan planning provisions under sections 5303 through 5305;

''(ii) the statewide planning provisions under section 135 of title 23; and

''(iii) the public participation requirements under section 5307(c); and

''(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

''(2) if the qualified participant is a State or local governmental authority, or more than 1 State or local governmental authority in more than 1 State, the qualified participant shall—

''(A) comply with sections 5303 through 5305;

''(B) comply with the statewide planning provisions under section 135 of title 23;

''(C) comply with the public participation requirements under section 5307(c); and

''(D) consult with the appropriate Federal land management agency during the planning process.

''(g) COST SHARING.—

''(1) DEPARTMENTAL SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

''(2) CONSIDERATIONS.—In establishing the departmental share of the net project cost of a qualified project, the Secretary shall consider—

''(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

''(B) the extent to which the qualified participant coordinates with a public or private mass transportation authority;

''(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

''(D) the clear and direct benefit to the qualified participant; and

''(E) any other matters that the Secretary considers appropriate to carry out this section.

''(3) NONDEPARTMENTAL SHARE.—Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the nondepartmental share of the cost of a qualified project.

''(h) SELECTION OF QUALIFIED PROJECTS.—

''(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

''(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

''(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

''(B) the location of the qualified project, to ensure that the selected qualified projects—

''(i) are geographically diverse nationwide; and

''(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

''(C) the size of the qualified project, to ensure that there is a balanced distribution;

''(D) the historical and cultural significance of a qualified project;

''(E) safety;

''(F) the extent to which the qualified project would—

''(i) enhance livable communities;

''(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

''(iii) reduce congestion; and

''(iv) improve the mobility of people in the most efficient manner; and

''(G) any other matters that the Secretary considers appropriate to carry out this section, including—

''(i) visitation levels;

''(ii) the use of innovative financing or joint development strategies; and

''(iii) coordination with gateway communities.

''(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

''(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary may pay the departmental share of the net project cost of a qualified project if—

''(A) the qualified participant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

''(2) INTEREST.—

''(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

''(B) LIMITATION.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

''(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

''(j) FULL FUNDING AGREEMENT; PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is more than $25,000,000—

''(1) the qualified project shall, to the extent that the Secretary considers appropriate, be carried out through a full funding agreement in accordance with section 5309(g); and

''(2) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

''(k) RELATIONSHIP TO OTHER LAWS.—Qualified participants shall be subject to—

''(1) the requirements of section 5333;

''(2) to the extent that the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

''(3) any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

''(l) INNOVATIVE FINANCING.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.

''(m) ASSET MANAGEMENT.—The Secretary may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

''(n) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

''(A) conserve resources;

''(B) prevent or mitigate adverse environmental impact;

''(C) improve visitor mobility, accessibility, and enjoyment; and

''(D) reduce pollution (including noise pollution and visual pollution).

''(2) ACCESS TO INFORMATION.—The Secretary may request and receive appropriate information from any source.

''(3) FUNDING.—Grants and contracts under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

''(o) REPORT.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the allocation of amounts to be made available to assist qualified projects under this section .

''(2) ANNUAL AND SUPPLEMENTAL REPORTS.—A report required under paragraph (1) shall be included in the report submitted under section 5309(p).''.

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(j) SECTION 5316.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out section 5316 $65,000,000 for each of fiscal years 2002 through 2007.

''(2) AVAILABILITY.—Amounts made available under this subsection for any fiscal year shall remain available for obligation until the last day of the third fiscal year commencing after the last day of the fiscal year for which the amounts were initially made available under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5315 the following:

''5316. Federal land transit program.''.

(2) PROJECT MANAGEMENT OVERSIGHT.—Section 5327(c) of title 49, United States Code, is amended in the first sentence—

(A) by striking ''or 5311'' and inserting ''5311, or 5316''; and

(B) by striking ''5311, or'' and inserting ''5311, 5316, or''.

(d) TECHNICAL AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended—

(1) in section 5309—

(A) by redesignating subsection (p) as subsection (q); and

(B) by redesignating the second subsection designated as subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998 (112 Stat. 356)) as subsection (p);

(2) in section 5328(a)(4), by striking ''5309(o)(1)'' and inserting ''5309(p)(1)''; and

(3) in section 5337, by redesignating the second subsection designated as subsection (e) (as added by section 3028(b) of the Federal Transit Act of 1998 (112 Stat. 367)) as subsection (f).

TRANSIT IN PARKS ACT—SECTION-BY-SECTION

Section 1: Short title

The Transit in Parks (TRIP) Act.

Section 2: In general

Amends Federal transit laws by adding new section 5316, ''Federal Land Transit Program.''

Section 3: Findings and purposes

The purpose of this Act is to promote the planning and establishment of alternative transportation systems within, and in the vicinity of, the national parks and other public lands to protect and conserve natural, historical, and cultural resources, mitigate adverse impact on those resources, relieve congestion, minimize transportation fuel consumption, reduce pollution, and enhance visitor mobility and accessibility and the visitor experience. The Act responds to the need for alternative transportation systems in the national parks and other public lands identified in the study conducted by the Department of Transportation pursuant to section 3039 of TEA–21, by establishing Federal assistance to finance mass transportation projects within and in the vicinity of the national parks and other public lands, to increase coordination with gateway communities, to encourage public-private partnerships, and to assist in the research and deployment of improved mass transportation equipment and methods.

Section 4: Definitions

This section defines eligible projects and eligible participants in the program. A ''qualified participant'' is a Federal land management agency, or a State or local governmental authority acting with the consent of a Federal land management agency. A ''qualified project'' is a planning or capital mass transportation project, including rail projects, clean fuel vehicles, joint development activities, pedestrian and bike paths, waterborne access, or projects that otherwise better protect the eligible areas and increase visitor mobility and accessibility. ''Eligible areas'' are lands managed by the National Park Service, the U.S. Fish and Wildlife Service, and the Bureau of Land Management, as well as any other Federally-owned or -managed park, refuge, or recreational area that is open to the general public. Qualified projects may be located either within eligible areas or in gateway communities in the vicinity of eligible areas.

Section 5: Federal Agency cooperative arrangements

This section implements the 1997 Memorandum of Understanding between the Departments of Transportation and the Interior for the exchange of technical assistance in mass transportation, the development of mass transportation policy and coordination, and the establishment of criteria for planning, selection, and funding of projects under this section.

Section 6: Types of assistance

This section gives the Secretary of Transportation authority to provide Federal assistance through grants, cooperative agreements, inter- or intra-agency agreements, or other agreements, including leasing under certain conditions, for a qualified project under this section.

Section 7: Limitation on use of available amounts

This section specifies that the Secretary may not use more than 5% of the amounts available under this section for planning, research, and technical assistance; these amounts can be supplemented from other sources. In addition, to ensure a broad distribution of funds, no project can receive more than 12% of the total amount available under this section in any given year.

Section 8: Planning process

This section requires the Secretaries of Transportation and the Interior to cooperatively develop a planning process consistent with TEA–21 for qualified participants which are Federal land management agencies. If the qualified participant is a State or local governmental authority, the qualified participant shall comply with the TEA–21 planning process and consult with the appropriate Federal land management agency during the planning process.

Section 9: Department's share of the costs

This section requires that in determining the Department's share of the project costs, the Secretary of Transportation, in cooperation with the Secretary of the Interior, must consider certain factors, including visitation levels and user fee revenues, coordination in project development with a public or private transit provider, private investment, and whether there is a clear and direct financial benefit to the qualified participant. The intent is to establish criteria for a sliding scale of assistance, with a lower Departmental share for projects that can attract outside investment, and a higher Departmental share for projects that may not have access to such outside resources. In addition, this section specifies that funds from the Federal land management agencies can be counted toward the local share.

Section 10: Selection of qualified projects

This section provides that the Secretary of the Interior, in cooperation with the Secretary of Transportation, shall prioritize the qualified projects for funding in an annual program of projects, according to the following criteria: (1) project justification, including the extent to which the project conserves resources, prevents or mitigates adverse impact, and enhances the environment; (2) project location to ensure geographic diversity and both rural and urban projects; (3) project size for a balanced distribution; (4) historical and cultural significance; (5) safety; (6) the extent to which the project would enhance livable communities, reduce pollution and congestion, and improve the mobility of people in the most efficient manner; and (7) any other considerations the Secretary deems appropriate, including visitation levels, the use of innovative financing or joint development strategies, and coordination with gateway communities.

Section 11: Undertaking projects in advance

This provision applies current transit law to this section, allowing projects to advance prior to receiving Federal funding, but allowing the advance activities to be counted toward the local share as long as certain conditions are met.

Section 12: Full funding agreement; project management plan

This section provides that large projects require a project management plan, and shall be carried out through a full funding agreement to the extent the Secretary considers appropriate.

Section 13: Relationship to Other Laws

This provision applies certain transit laws to projects funded under this section, and permits the Secretary to apply any other terms or conditions he or she deems appropriate.

Section 14: Innovative financing

This section provides that a project assisted under this Act can also use funding from a State Infrastructure Bank or other innovative financing mechanism that is available to fund other eligible transit projects.

Section 15: Asset management

This provision permits the Secretary of Transportation to transfer control over a transit asset acquired with Federal funds under this section to a qualified government

participant in accordance with certain Federal property management rules.

Section 16. Coordination of research and deployment of new technologies

This provision allows the Secretary, in cooperation with the Secretary of the Interior, to enter into grants or other agreements for research and deployment of new technologies to meet the special needs of eligible areas under this Act.

Section 17: Report

This section requires the Secretary of Transportation to submit a report on projects funded under this section to the House Transportation and Infrastructure Committee and the Senate Banking, Housing, and Urban Affairs Committee, to be included in the Department's annual project report.

Section 18: Authorization

$65,000,000 is authorized to be appropriated for the Secretary to carry out this program for each of the fiscal years 2002 through 2007.

Section 19: Conforming amendments

Confirming amendments to the transit title, including an amendment to allow 0.5% per year of the funds made available under this section to be used for project management oversight.

Section 20: Technical amendments

Technical corrections to the transit title in TEA–21.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington, DC, June 6, 2001.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: Thank you for sharing with us a copy of the ''Transit in Parks (TRIP) Act'' which would amend the federal transit law at chapter 53, title 49 U.S.C.

The Act would authorize federal assistance to certain federal agencies and state and local entities to finance mass transportation projects generally for the purpose of addressing transportation congestion and mobility issues at national parks and other eligible areas. In addition, the legislation would encourage enhanced cooperation between the Departments of Transportation and Interior regarding joint efforts of those federal agencies to encourage the use of public transportation at national parks.

I am pleased to support your efforts to improve mobility in our national parks. Public transportation clearly has much to offer citizens who visit these national treasures, where congestion and pollution are significant—and growing—problems. Moreover, this legislation should broaden the base of support for public transportation, a key principle APTA has been advocating for many years. In that regard, we will review your bill with APTA's legislative leadership.

I applaud you for writing the legislation, and look forward to continuing to work with you and your staff. Let us know what we can do to help your initiative!

Sincerely yours,

WILLIAM W. MILLAR,
President.

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, May 23, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Parks Conservation Association (NPCA) and its over 400,000 members, I want to thank you for proposing the Transit in Parks Act that will enhance transit options for access to and within our national parks. NPCA applauds your leadership and foresight in recognizing the critical role that mass transit can play in protecting our parks and improving the visitor experience.

Visitation to America's national parks has skyrocketed during the past two decades, from 190 million visitors in 1975 to approximately 286 million visitors last year. Increased public interest in these special places has placed substantial burdens on the very resources that draw people to the parks. As more and more individuals crowd into our national parks—typically by automobile—fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

As outlined in your legislation, the establishment of a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks will have a powerful, positive effect on the future ecological and cultural integrity of the parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation such as Yellowstone-Grand Teton, Yosemite, Grand Canyon, Acadia, and the Great Smoky Mountains national parks. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

Equally important, the legislation will provide an excellent opportunity for the National Park Service (NPS) to enter into public/private partnerships with states, localities, and the private sector, providing a wider range of transportation options than exists today. These partnerships could leverage funds that NPS currently has great difficulty accessing.

NPCA wholeheartedly endorses your bill as a creative new mechanism to fulfill the primary mission of the National Park System: ''to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.''

We look forward to working with you to move this legislation to enactment

Sincerely,

THOMAS C. KIERNAN,
President.

FRIENDS OF THE EARTH,
June 27, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of Friends of the Earth, I want to thank you for proposing the Transit in Parks Act. This important bill will enhance transit options for access to and within our national parks. Your leadership in this matter is greatly appreciated.

Americans are visiting our national parks at an unprecedented rate, with visitation growing from 190 million visitors in 1975 to approximately 286 million visitors last year. With increased visitation comes an increased burden on the parks. As more and more individuals take their cars into our national parks, fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

Your innovative legislation would establish a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks. This is of vital importance for the future of our national parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

We look forward to working with you to move this legislation to enactment.

Sincerely,

DAVID HIRSCH,
Transportation Policy Coordinator.

ENVIRONMENTAL DEFENSE,
Washington, DC, May 22, 2001.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the Environmental Defense Fund and our 300,000 members to express support for your bill, the Transit in Parks Act, which will provide dedicated funding for transit projects in our national parks. Too many of our parks suffer from the consequences of poor transportation systems; traffic congestion, air and water pollution, and disturbance of natural ecosystems.

Increased funding for attractive and effective transit services to and within our national parks is essential to mitigating these growing problems. A good working transit system in a number of our national parks will make the park experience not only more enjoyable for the many families that travel there, it will help improve environmental conditions. Air pollutants that exacerbate respiratory health problems, damage vegetation, and contribute to haze which too often obliterates the views at our parks, will be abated by decreasing the number of cars and congestion levels in the parks. Improved transit related to our parks is key to diversifying transportation choices and access for the benefit of all who might visit our national park system. It is also vital to assuring equal access for all citizens to our parks, including those without cars.

We appreciate your leadership on this issue and your dedication to the health of our national parks and expanded choices in our transportation systems. We look forward to working with you to move your legislation forward.

Sincerely,

MICHAEL REPLOGLE,
Transportation Director.

COMMUNITY TRANSPORTATION ASSOCIATION,
Washington, DC, June 7, 2001.

Hon. PAUL SARBANES,
Committee on Banking, Housing and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The Community Transportation Association continues to support your efforts to provide alternative transportation strategies in our national parks and other public lands. Our association's 3,400 members provide public and community transportation services in many of the smaller communities that border these

national parks, monuments, and recreational areas, and our association has members actively involved in providing transportation services at several national parks.

All of us know the danger that congestion and increases in traffic pose for the future of these sites and locations. Your continued sponsorship of the Transit in Parks Act is an important step in helping ensure that America's natural beauty and historic treasures remain a continuous part of our nation's future. We have members throughout the country whose experiences support the principle that public transit investments in and near national parks and public lands can improve mobility, support the economic vitality of these parks' ''gateway communities,'' and make dramatic improvements in the experiences of park visitors, employees, and community residents alike.

As an illustration of this point, enclosed is an article recently published in our Community Transportation magazine that discusses public transportation as part of the solution to traffic congestion and mobility issues in Acadia, Yosemite and Zion National Parks. These success stories could be replicated in many other communities under your Transit in Parks proposal.

We appreciate your dedicated efforts and initiative in this regard, and look forward to helping you advance this important piece of legislation.

Sincerely,

DALE J. MARSICO,
Executive Director.

AMENDMENTS SUBMITTED AND PROPOSED

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, supra.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON, of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, supra.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, supra.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 842. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, supra.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, supra.

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, supra.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, supra.

SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); plus

''(II) any attorney's fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or estate); less

''(III) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); less

''(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.''

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 105, line 2, after ''treatment'' insert the following: ''The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 103 and approving coverage pursuant to the written determination of an independent medical reviewer under section 104.''.

Beginning on page 139, strike line 21 and all that follows through line 14 on page 171, and insert the following:

SEC. 302. AVAILABILITY OF COURT REMEDIES.

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

''(n) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

''(1) IN GENERAL.—

''(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—