Barbara W. Snelling, of Vermont, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2001.

Robert B. Rogers, of Missouri, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2001.

Jane Lubchenco, of Oregon, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2006. (Reappointment)

Warren M. Washington, of Colorado, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2006. (Reappointment)

Marc E. Leland, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2003.

Harriet M. Zimmerman, of Florida, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2003. (Reappointment)

Donald J. Sutherland, of New York, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring August 11, 2002. (Reappointment)

Holly J. Burkhalter, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2001.

Gordon S. Heddell, of Virginia, to be Inspector General, Department of Labor.

Carol W. Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of one year. (New Position)

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. ABRAHAM:

S. 2903. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BYRD, Mr. BAYH, Mr. LEVIN, Mr. ROCKEFELLER, and Mr. JOHNSON):

S. 2904. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2905. A bill to amend title XVIII of the Social Security Act to make improvements to the Medicare+Choice program under part C of the medicare program; to the Committee on Finance.

By Mr. ALLARD:

S. 2906. A bill to authorize the Secretary of the Interior to enter into contracts with the city of Loveland, Colorado, to use Colorado-Big Thompson Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Mr. HUTCHINSON):

S. 2907. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. REID:

S. Res. 339. A resolution designating November 18, 2000, as ''National Survivors of Suicide Day''; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. EDWARDS, Mr. ABRAHAM, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BRYAN, Mr. CLELAND, Mr. COCHRAN, Mr. CRAIG, Mr. DODD, Mr. DORGAN, Mrs. FEINSTEIN, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. JOHNSON, Mr. KERREY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mrs. LINCOLN, Mrs. MURRAY, Mr. ROBB, Mr. SARBANES, and Mr. VOINOVICH):

S. Res. 340. A resolution designating December 10, 2000, as ''National Children's Memorial Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM:

S. 2903. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Finance.

EXPANSION OF THE CHILD TAX CREDIT

Mr. ABRAHAM. Mr. President, I rise today to introduce legislation to provide a $1,000 per child tax credit for America's working families.

Mr. President, this legislation builds on the $500 per child tax credit passed in 1997. The passage of the $500 per child tax credit was the culmination of an effort that began in 1994 with a proposal contained in the ''Contract with America.'' A child tax credit provision also was part of the Balanced Budget Act of 1995 which 104th Congress passed, but President Clinton vetoed.

Even with the $500 per child tax credit in place, today's total tax burden on families is still far too high. During this era of budget surpluses, we must remember that these surplus funds are tax overpayments that should be returned to the people who overpaid them, and not spent on wasteful government programs. American families will spend the money better.

The child tax credit will help hard working families who pay federal income tax and have children to support. Under this proposal, a working family with two children will receive $2,000 in the form of a tax credit to help pay their children's health, education and food expenses. Being a parent is not always easy. It becomes even more difficult if a family has trouble paying for necessities such as food, clothes, education, and health care for their children. This tax credit will help those families.

Mr. President, increasing the child tax credit to $1,000 is a statement by our government and our society that all our families and all of our children will not be left behind. Increasing the $500 per child tax credit to $1,000 would provide parents more than 38 million children, including roughly 1.5 million of my constituents in Michigan.

With that in mind, I urge my colleagues to join me in supporting American families by supporting this legislation.

Mr. President, I ask unanimous consent that the full text be printed in the RECORD and yield the floor.

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

S. 2903

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

SECTION 1. EXPANSION OF CHILD TAX CREDIT.

(a) INCREASE IN AMOUNT ALLOWED.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended by striking ''$500 ($400 in the case of taxable years beginning in 1998)'' and inserting ''$1,000''.

(b) REPEAL OF PHASEOUT OF CREDIT.—Section 24 of such Code is amended by striking subsection (b) and redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Section 32(n)(1)(B)(ii) of such Code is amended by striking ''section 24(d)'' and inserting ''section 24(c)''.

(2) Section 501(c)(26) of such Code is amended by striking ''section 24(c)'' and inserting ''section 24(b)''.

(3) Section 6213(g)(2)(I) of such Code is amended by striking ''section 24(e)'' and inserting ''section 24(d)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BYRD, Mr. BAYH, Mr. LEVIN, Mr. ROCKEFELLER, and Mr. JOHNSON):

S. 2904. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance

THE ENERGY SECURITY TAX AND POLICY ACT OF 2000

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill, on behalf of myself and Senators DASCHLE, BYRD, BAUCUS, BAYH, JOHNSON, LEVIN, and ROCKEFELLER, that offers a comprehensive approach to energy policy. This bill, the Energy Security Tax and Policy Act of 2000, incorporates many of the provisions of S. 1833, a comprehensive package of broad energy tax incentives introduced by Senator DASCHLE last year that I cosponsored along with a number of other Democratic Senators. We have updated and modified the bill after having worked closely with many stakeholders, from the auto

manufacturers, to the oil and gas producers, to the energy efficiency community.

The Energy Security Tax and Policy Act of 2000 addresses a broad range of technologies and industries necessary to meet our energy needs. The bill includes incentives to ensure we maintain production of our domestic resources, but the overarching emphasis is on stimulating more efficient use of energy in its many forms. Specific incentives address:

Purchase of more efficient appliances, homes, and commercial buildings.

Greater use of distributed generation—fuel cells, microturbines, combined heat and power systems and renewables.

Purchase of hybrid and alternative fueled vehicles and development of the infrastructure to service those vehicles.

Investment in clean coal technologies and generation of electricity from biomass, including co-firing with coal.

Countercyclical tax incentives for production from domestic oil and gas marginal wells.

Provisions to ensure diverse sources of electric supply are developed in the U.S. and to continue our investment in demand side management.

In addition, the bill reauthorizes the President's emergency energy authorities, including establishing a northeastern heating oil reserve.

We have tried to take a balanced approach, both supply side and demand side. Many of the provisions in this bill have strong bipartisan support, and I believe would receive the support of the White House as part of a comprehensive package.

After my 17 years in the Senate and on the Energy Committee, I have to note that the same issues have been with us in varying degrees for years. Our current energy situation is the result of the policies and decisions of many Administrations, Congresses, companies and individuals, not to mention the vagaries of the marketplace.

Finding solutions will take serious bipartisan effort and long term commitment. While we have the attention of the Congress, the White House and the public, I hope we can work together in the remaining days of this Congress to enact as many of these measures as possible to protect our energy security and our economy.

By Mr. BINGAMAN:

S. 2905. A bill to amend title XVIII of the Social Security Act to make improvements to the Medicare+Choice program under part C of the Medicare Program; to the Committee on Finance.

THE MEDICARE+CHOICE PROGRAM IMPROVEMENT ACT OF 2000

Mr. BINGAMAN. Mr. President, I am pleased to introduce a bill today—the Medicare+Choice Improvement Act of 2000—that would correct several of the inequities in the complex formula that is used to determine payment rates for Medicare+Choice plans. As many of my colleagues know, the passage of the Balanced Budget Act of 1997 created a new optional Medicare+Choice managed care program for the aged and disabled beneficiaries of the Medicare program. This new program replaced the previous risk program and established a payment structure that was designed to reduce the variation across the country by increasing payments in areas with traditionally low payments. However, although payment variation has been somewhat reduced, substantial payment differentials remain nationwide. In New Mexico, for example, the Medicare+Choice plan payment for 2000 in Albuquerque is $430.44 monthly per beneficiary vs. $814.32 for NYC. Because these payments are so low in some places it has caused a devastating result—seniors are being dropped in large numbers.

The bill I am introducing today will correct inequities in the current formula that is used to develop payment rates for Medicare+Choice managed care plans and keep them as a viable alternative to traditional fee-for-service Medicare. Medicare+Choice plans are a popular alternative to traditional Medicare fee-for-service health care coverage for aged and disabled Americans because they help contain the beneficiary's out-of-pocket expenses, coordinate health care, and increase important benefits.

Mr. President, the sad reality is that Medicare+Choice plans are suffering financially under the new payment system and are no longer able to maintain enrollment of Medicare+Choice beneficiaries.

As you can see from this chart, New Mexico Medicare+Choice plans have announced plans to drop 15,700 beneficiaries from their rolls on January 1, 2001.

And, as you can see from this chart, nationally, the number of Medicare+Choice plan beneficiaries that will be dropped on January 1, 2001 are expected to be 711,000. Since 1999, 735,000 beneficiaries have been dropped. This would mean that as of January 1, 2001, 1,445,000 beneficiaries will have been dropped.

This is a terrible situation. Even though beneficiaries that are dropped from Medicare+Choice plans will revert to traditional Medicare and will be able to purchase Medicare supplemental health insurance plans, the high cost associated with the purchase of these plans will put an additional financial burden on these aged and disabled Americans living on fixed incomes. Additionally, they will not have the additional health care benefits available to them under Medicare+Choice plans, including routine physicals, vision care, and prescription drugs.

Because Medicare+Choice plans are offered by private managed care companies and because of their unique structure, these plans were able to limit out of pocket expenses, provide additional benefits to beneficiaries, and control health care costs to the Federal government.

As you can see from this chart, Medicare+Choice plans offer a host of important benefits and options over and above traditional Medicare. These include: prescription drugs, lower cost sharing with a catastrophic cap on expenditures, care coordination, routine physicals, health education, vision services and, hearing exams/aids.

Mr. President, the loss of this important health care coverage option for the aged and disabled will be devastating for some. This situation will probably cause many of those on marginal incomes to lose the ability to afford normal living expenses that may effectively require them to enroll in Medicaid and state financial assistance programs. If a beneficiary, who was dropped from a Medicare+Choice plan, has a fall and is admitted into the hospital they will be responsible for all deductible expenses and when they are discharged and sent home with a doctor's order for physical therapy, occupational therapy and visiting nurse service they would be responsible for all Medicare deductibles. This event could cost the beneficiary several thousand dollars. This acute episode could force a beneficiary living on a marginal income to be unable to pay for their deductibles, cease treatment prematurely, or even worse, avoid return visits to the doctor until they are in another emergency situation. Additionally, they would be forced to enroll on a state Medicaid program for the indigent.

Sadly, Mr. President, the formula that was developed for Medicare+Choice plans was intended to address geographic variation in the payment rates has gone too far in controlling costs and missed the boat with respect to geographic variability. Sure, the goal of managed care is to save money for the taxpayer and coordinate quality care for the beneficiary, but there is a point at which a health plan cannot afford financially to operate. This forces the beneficiary onto traditional Medicare with its higher costs for both the taxpayer and beneficiary.

Mr. President, this point has been reached in New Mexico and other areas of the country. We may not be able to have Medicare+Choice plans take back their dropped beneficiaries but, we can prevent more from being dropped by acting favorably on this bill. The bottom line is this: As a nation, we need to do all we can to provide a viable option to traditional fee-for-service Medicare that provides coordinated managed care at a savings to both the beneficiary and the Federal Government.

The bill that I am introducing has provisions to raise the minimum payment floor, move to a 50:50 blend rate between local and national rates in 2002, set a ten-year phase-in of risk adjustment and allow plans to negotiate

a rate of payment with HCFA regardless of the county-specific rate, as long as the negotiated rate does not exceed the national average per-capita cost, and delay from July to November 2000 the deadline for offering and withdrawing Medicare+Choice plans for 2001.

I urge my colleagues to support this effort and to join me in taking an important step toward maintaining Medicare+Choice managed care plans as a positive alternative to traditional fee-for-service Medicare, and prevent more enrollees from being dropped while we try to reform Medicare. We owe it to our nation to take care of our elderly and aged citizens and not expose them to more hardship.

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

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

S. 2905

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare+Choice Program Improvement Act of 2000''.

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

SEC. 2. INCREASE IN NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE IN 2001 AND 2002.

Section 1853(c)(6)(B) of the Social Security Act (42 U.S.C. 1395w–23(c)(6)(B)) is amended—

(1) in clause (iii), by adding ''and'' at the end;

(2) by striking clauses (iv) and (v);

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

(4) in clause (iv), as so redesignated, by striking ''after 2002'' and inserting ''after 2000''.

SEC. 3. INCREASING MINIMUM PAYMENT AMOUNT.

(a) IN GENERAL.—Section 1853(c)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)(B)(ii)) is amended—

(1) by striking ''(ii) For a succeeding year'' and inserting ''(ii)(I) Subject to subclause (II), for a succeeding year''; and

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

''(II) For 2002 for any of the 50 States and the District of Columbia, $500.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to years beginning with 2002.

SEC. 4. ALLOWING MOVEMENT TO 50:50 PERCENT BLEND IN 2002.

Section 1853(c)(2) of the Social Security Act (42 U.S.C. 1395w–23(c)(2)) is amended—

(1) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(2) by adding at the end the following flush matter:

''except that a Medicare+Choice organization may elect to apply subparagraph (F) (rather than subparagraph (E)) for 2002.''.

SEC. 5. INCREASED UPDATE FOR PAYMENT AREAS WITH ONLY ONE OR NO MEDICARE+CHOICE CONTRACTS.

(a) IN GENERAL.—Section 1853(c)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)(C)(ii)) is amended—

(1) by striking ''(ii) For a subsequent year'' and inserting ''(ii)(I) Subject to subclause (II), for a subsequent year''; and

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

''(II) During 2002, 2003, 2004, and 2005, in the case of a Medicare+Choice payment area in which there is no more than one contract entered into under this part as of July 1 before the beginning of the year, 102.5 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

(b) CONSTRUCTION.—The amendments made by subsection (a) do not affect the payment of a first time bonus under section 1853(i) of the Social Security Act (42 U.S.C. 1395w–23(i)).

SEC. 6. PERMITTING HIGHER NEGOTIATED RATES IN CERTAIN MEDICARE+CHOICE PAYMENT AREAS BELOW NATIONAL AVERAGE.

Section 1853(c)(1) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''or (C)'' and inserting ''(C), or (D)''; and

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

''(D) PERMITTING HIGHER RATES THROUGH NEGOTIATION.—

''(i) IN GENERAL.—For each year beginning with 2001, in the case of a Medicare+Choice payment area for which the Medicare+Choice capitation rate under this paragraph would otherwise be less than the United States per capita cost (USPCC), as calculated by the Secretary, a Medicare+Choice organization may negotiate with the Secretary an annual per capita rate that—

''(I) reflects an annual rate of increase up to the rate of increase specified in clause (ii);

''(II) takes into account audited current data supplied by the organization on its adjusted community rate (as defined in section 1854(f)(3)); and

''(III) does not exceed the United States per capita cost, as projected by the Secretary for the year involved.

''(ii) MAXIMUM RATE DESCRIBED.—The rate of increase specified in this clause for a year is the rate of inflation in private health insurance for the year involved, as projected by the Secretary, and includes such adjustments as may be necessary—

''(I) to reflect the demographic characteristics in the population under this title; and

''(II) to eliminate the costs of prescription drugs.

''(iii) ADJUSTMENTS FOR OVER OR UNDER PROJECTIONS.—If this subparagraph is applied to an organization and payment area for a year, in applying this subparagraph for a subsequent year the provisions of paragraph (6)(C) shall apply in the same manner as such provisions apply under this paragraph.''.

SEC. 7. 10-YEAR PHASE-IN OF RISK ADJUSTMENT BASED ON DATA FROM ALL SETTINGS.

Section 1853(a)(3)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)(C)(ii)) is amended—

(1) by striking the period at the end of subclause (II) and inserting a semicolon; and

(2) by adding at the end the following flush matter:

''and, beginning in 2004, insofar as such risk adjustment is based on data from all settings, the methodology shall be phased-in in equal increments over a 10-year period, beginning with 2004 or (if later) the first year in which such data is used.''.

SEC. 8. DELAY FROM JULY TO NOVEMBER 2000 IN DEADLINE FOR OFFERING AND WITHDRAWING MEDICARE+CHOICE PLANS FOR 2001.

Notwithstanding any other provision of law, the deadline for a Medicare+Choice organization to withdraw the offering of a Medicare+Choice plan under part C of title XVIII of the Social Security Act (or otherwise to submit information required for the offering of such a plan) for 2001 is delayed from July 1, 2000, to November 1, 2000, and any such organization that provided notice of withdrawal of such a plan during 2000 before the date of enactment of this Act may rescind such withdrawal at any time before November 1, 2000.

By Mr. ALLARD:

S. 2906. A bill to authorize the Secretary of the Interior to enter into contracts with the city of Loveland, Colorado, to use Colorado-Big Thompson Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes; to the Committee on Energy and Natural Resources.

NORTHERN COLORADO WATER LEGISLATION

Mr. ALLARD. Mr. President, I am pleased to take a step in addressing the long-term water needs of the northern Colorado citizens whose water is provided by the City of Loveland, Colorado. The bill I am introducing today authorizes the Secretary of the Interior to enter into contracts with the City of Loveland to utilize federal facilities of the original Colorado-Big Thompson Project for various purposes such as the storage and transportation of non-federal water originating on the eastern slope of the Rocky Mountains and intended for domestic, municipal, industrial and other uses.

Water supplies for Colorado cities are extremely limited. Whenever possible, cities attempt to use their water storage and conveyance systems in the most efficient ways they can. The City of Loveland is trying to use excess capacity in the federally built Colorado-Big Thompson conveyance facilities to deliver water to an enlarged city reservoir, but current law does not allow the City to use excess capacity in an existing Federal water delivery canal for domestic purposes.

In this case, Loveland intends to convey up to 75 cubic feet per second of its native river water supply from the Big Thompson River to two city-owned facilities, Green Ridge Glade Reservoir and Chasteen Grove Water Treatment Plant. A contract with the Bureau of Reclamation and the Colorado-Big Thompson Project operator, Northern Colorado Water Conservancy District, will provide an economical and reliable means of delivering Loveland's native

river water supplies. The City of Loveland simply desires to ''wheel'' some of its drinking water supply through excess capacity in a canal serving Colorado-Big Thompson Project, a water project built by the Bureau of Reclamation from 1938 to 1957. Loveland is prepared to pay appropriate charges for the use of this facility. In addition, any contract affecting the Colorado-Big Thompson Project would be conducted in full compliance with all applicable environmental requirements. In fact, the Final Environmental Assessment on use of C-BT facilities to convey City of Loveland Water Supplies to an expanded Green Ridge Glade Reservoir has already been completed, and permits have been issued by the Army Corps of Engineers.

Allowing Loveland to use the Colorado-Big Thompson Project should be a simple matter, but it is not. Legislation is required to allow the City to use the Federal water project for carriage of municipal and industrial water. Historically when a party has desired to use Reclamation project facilities for the storage or conveyance of non-project water, the authority cited was the Act of February 21, 1911, known as the Warren Act. The Warren Act provides for the utilization of excess capacity in Reclamation project facilities to store non-project, irrigation water. Based on the current interpretation of Reclamation law, the Warren Act does not provide authority to enter into long-term storage or conveyance contracts for non-irrigation, non-project water in Colorado-Big Thompson Project facilities.

Congress in recent years has expanded the scope of the Warren Act to apply to communities in California and Utah where there existed a need for more water management flexibility. The legislation I am introducing today is similar to other legislation introduced and passed in the recent Congresses. It will simply extend similar flexibility to the Colorado-Big Thompson Project and to the City of Loveland. Since there is precedent allowing the wheeling of non-federal water through federal facilities, this is a non-controversial piece of legislation. Therefore, I hope that Congress will move quickly to pass this legislation and I look forward to working closely with my colleagues on the Energy and Natural Resources Committee to move it quickly.

By Mr. FEINGOLD (for himself and Mr. HUTCHINSON):

S. 2907. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO JUSTICE REFORM LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce the Equal Access to Justice Reform Amendments of 2000. This legislation contains adjustments to the Equal Access to Justice Act (EAJA) that will streamline and improve the process of awarding attorney's fees to private parties who prevail in litigation against the Federal government. This is the third Congress in which I have introduced this legislation. I believe these reforms are an important step in reducing the burden of defending government litigation for many individuals and small businesses.

I am very pleased to be joined in introducing this legislation this year by my friend from Arkansas, Sen. TIM HUTCHINSON. We hope that by working on a bipartisan basis on this important project we can improve the chances that it can become law.

Over the years, and certainly now in this election year, members of Congress often speak of ''getting government off the backs of the American people.'' Sometimes we disagree about when government is a burden and when it is giving a helping hand. But all of us in the Senate want to reform government in ways that will improve the lives of people all across this nation. The legislation we are proposing today deals directly with a problem that affects everyday Americans who face legal battles with the federal government and prevail. Even if they win in court, they may still lose financially because of the expense of paying their attorneys.

At the outset, it is important to understand what the Equal Access to Justice Act is, and why it exists. The premise of this statute is very simple. EAJA places individuals and small businesses who face the United States Government in litigation on more equal footing with the government by establishing guidelines for the award of attorney's fees when the individual or small business prevails. Quite simply, EAJA acknowledges that the resources available to the federal government in a legal dispute far outweigh those available to most Americans. This disparity is lessened by requiring the government in certain instances to pay the attorneys' fees of successful private parties. By giving successful parties the right to seek attorneys' fees from the United States, EAJA seeks to prevent small business owners and individuals from having to risk their companies or their family savings in order to seek justice.

My interest in this issue predates my election to the Senate. It arises from my experience both as a private attorney and a Member of the state Senate in my home state of Wisconsin. While in private practice, I became aware of how the ability to recoup attorney's fees is a significant factor, and often one of the first considered, when deciding whether or not to seek redress in the courts or to defend a case. Upon entering the Wisconsin State Senate, I authored legislation modeled on the federal law, which had been championed by one of my predecessors in this body from Wisconsin, Senator Gaylord Nelson. Today, section 814.246 of the Wisconsin statutes contains provisions similar to the federal EAJA statute.

It seemed to me then, as it does now, that we should do all that we can to help ease the financial burdens on people who need to have their claims reviewed and decided by impartial decision makers. To this end, I have reviewed the existing federal statutes with an eye toward improving them and making them work better. The bill Senator HUTCHINSON and I are introducing today does a number of things to make EAJA more effective for individuals and small business men and women all across this country.

First and most important, this legislation eliminates the provision in current law that allows the government to avoid paying attorneys' fees when it loses a suit if it can show that its position was substantially justified. I believe that this high threshold for obtaining attorneys' fees is unfair. If an individual or small business battles the federal government in an adversarial proceeding and prevails, the government should simply pay the fees incurred. Imagine the scenario of a small business that spends time and money dueling with the government and wins, only to find out that it must now undertake the additional step of litigating the justification of government's litigation position. For the government, with its vast resources, this second litigation over fees poses little difficulty, but for the citizen or small business it may simply not be financially feasible.

Not only is this additional step a financial burden on the private litigant, but a 1992 study also reveals that it is unnecessary and a waste of government resources. University of Virginia Professor Harold Krent on behalf of the Administrative Conference of the United States found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of subtantial justification, it is Prof. Krent's opinion, based upon review of cases in 1989 and 1990, that while the substantial justification defense may save some money, it was not enough to justify the cost of the additional litigation. In short, eliminating this often burdensome second step is a cost effective step which will streamline recovery under EAJA and may very well save the government money in the long run.

The second part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that

party is not entitled to the attorneys' fees and costs incurred after the date of the government's offer. Again, this will encourage settlement, speed the claims process, and thereby reduce the time and expense of the litigation.

The final improvement to EAJA included in this legislation is the removal of the carve out of cases where the prevailing party is eligible to get attorneys fees under section 7430 of the Internal Revenue Code. Under current law, EAJA is inapplicable in cases where a taxpayer prevails against the government. I was an original cosponsor of a bill that suggested a similar reform introduced by Senator LEAHY of Vermont in the last Congress. This provision helps to level the playing field between the IRS and everyday citizens. There is no reason that taxpayers should be treated differently than any other party that prevails in a case against the government. They deserve to have their fees paid if they win.

We all know that the American small business owner has a difficult road to make ends meet and that unnecessary or overly burdensome government regulation can be a formidable obstacle to doing business. It can be the difference between success or failure. The Equal Access to Justice Act was conceived and implemented to help balance the formidable power of the federal government. It has already helped many Americans. The legislation we are offering today will make EAJA more effective for more Americans while at the same time helping to deter the government from acting in an indefensible and unwarranted manner.

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

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

S. 2907

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

SECTION 1. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This Act may be cited as the ''Equal Access to Justice Reform Amendments of 2000''.

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after ''(2)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after ''(B)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(c) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(d) TAXPAYERS' RECOVERY OF COSTS, FEES, AND EXPENSES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended by striking subsection (f).

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended by striking subsection (e).

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code (as amended by subsection (d) of this section), is amended by adding at the end the following:

''(f)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code (as amended by subsection (d) of this section), is amended by inserting after subsection (d) the following:

''(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking all beginning with '', unless the adjudicative officer'' through ''expenses are sought''; and

(B) in subsection (a)(2), by striking ''The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking '', unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust'';

(B) in paragraph (1)(B), by striking ''The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought.''; and

(C) in paragraph (3), by striking '', unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust''.

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

Mr. HUTCHINSON. Mr. President, I rise today, with my colleague Senator FEINGOLD, to introduce the Equal Access to Justice, EAJA, Reform Amendments of 2000. I do so because I firmly believe that small business owners and individuals who prevail in court against the federal government should be automatically reimbursed for their legal expenses— fulfilling the true intent of EAJA when passed in 1980.

EAJA's initial premise was to reduce the vast disparity in resources and expertise which exists between small business owners or individuals and federal agencies and to encourage the government to ensure that the claims it pursues are worthy of its efforts. Twenty years ago, former Senator Gaylord Nelson, the author of the original, bipartisan EAJA bill, clearly explained EAJA's intent when he stated, ''All I can say is the taxpayer is injured, and if the taxpayer was correct, and that is the finding, then we ought to make the taxpayer whole.'' I commend former Senator Nelson. His steadfast commitment to our nation's businesses as Chairman of the Senate Small Business Committee is worthy of admiration. As

a result of a political compromise, however, the final version of EAJA does not provide for an automatic award of attorneys' fees. Rather, it provides for an award of attorneys' fees only when an agency or a court determines that the government's position was not ''substantially justified'' or that ''special circumstances'' exist which would make an award unjust.

Agencies and courts have strayed far from the original intent of EAJA by repeatedly using these provisions to avoid awarding attorneys' fees to small businesses and individuals who have successfully defended themselves. The bill that Senator FEINGOLD and I are introducing today, the Equal Access to Justice Reform Amendments of 2000, would amend EAJA to provide that a small business owner or individual prevailing against the government will be automatically entitled to recover their attorneys' fees and expenses incurred in their defense.

Unfortunately, EAJA is not making the taxpayers of this nation whole after they defend themselves against government action. Thus, I ask that my colleagues join Senator FEINGOLD and myself in our effort to make these American taxpayers whole by cosponsoring and supporting the Equal Access to Justice Reform Amendments of 2000.

ADDITIONAL COSPONSORS

S. 808

At the request of Mr. JEFFORDS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes.

S. 1140

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1140, a bill to require the Secretary of Labor to issue regulations to eliminate or minimize the significant risk of needlestick injury to health care workers.

S. 1880

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1880, a bill to amend the Public Health Service Act to improve the health of minority individuals.

S. 1898

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1898, a bill to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners.

S. 2084

At the request of Mr. LUGAR, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable deduction allowable for contributions of food inventory, and for other purposes.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. KERREY), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2615

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2615, a bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes.

S. 2676

At the request of Mr. HUTCHINSON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2676, a bill to amend the National Labor Relations Act to provide for inflation adjustments to the mandatory jurisdiction thresholds of the National Labor Relations Board.

S. 2718

At the request of Mr. SMITH of New Hampshire, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2718, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 2723

At the request of Mr. INHOFE, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2723, a bill to amend the Clean Air Act to permit the Governor of a State to waive oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control releases of methyl tertiary butyl ether from underground storage tanks, to establish a program to phase out the use of methyl tertiary butyl ether, and for other purposes.

S. 2733

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2733, a bill to provide for the preservation of assisted housing for low income elderly persons, disabled persons, and other families.

S. 2787

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2879

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2879, a bill to amend the Public Health Service Act to establish programs and activities to address diabetes in children and youth, and for other purposes.

S. CON. RES. 60

At the request of Mr. FEINGOLD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S.J. RES. 48

At the request of Mr. CAMPBELL, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Oklahoma (Mr. NICKLES), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S.J. Res. 48, a joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act.

S. RES. 304

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

AMENDMENT NO. 4011

At the request of Mr. HARKIN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of amendment No. 4011 proposed to H.R. 4461, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes.

SENATE RESOLUTION 339—DESIGNATING NOVEMBER 18, 2000, AS ''NATIONAL SURVIVORS OF SUICIDE DAY''

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

Whereas the 105th Congress, in Senate Resolution 84 and House Resolution 212, recognized suicide as a national problem and suicide prevention as a national priority;

Whereas the Surgeon General has publicly recognized suicide as a public health problem;

Whereas the resolutions of the 105th Congress called for a collaboration between public and private organizations and individuals concerned with suicide;

Whereas in the United States, more than 30,000 people take their own lives each year;

Whereas suicide is the 8th leading cause of death in the United States and the 3rd major cause of death among young people aged 15 through 19;

Whereas the suicide rate among young people has more than tripled in the last 4 decades, a fact that is a tragedy in itself and a source of devastation to millions of family members and loved ones;