S. 1328

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1328, a bill entitled the ''Conservation and Reinvestment Act''.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1433

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1433, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001.

S. 1434

At the request of Mr. SPECTER, the names of the Senator from Alaska (Mr. MURKOWSKI), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Delaware (Mr. BIDEN), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1434, a bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001.

S. 1447

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1447, a bill to improve aviation security, and for other purposes.

S. 1486

At the request of Mr. EDWARDS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1486, a bill to ensure that the United States is prepared for an attack using biological or chemical weapons.

S. 1496

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1496, a bill to clarify the accounting treatment for Federal income tax purposes of deposits and similar amounts received by a tour operator for a tour arranged by such operator.

S.J. RES. 24

At the request of Mr. SPECTER, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Montana (Mr. BURNS), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S.J. Res. 24, a joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell.

S. RES. 171

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Res. 171, a resolution expressing the sense of the Senate concerning the provision of funding for bioterrorism preparedness and response.

S. CON. RES. 74

At the request of Mr. DURBIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 74, a concurrent resolution condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 1544. A bill to direct the Secretary of Transportation to give certain workers who have lost their jobs as a result of the terrorist attacks of September 11, 2001, priority in hiring for aviation-related security positions; to the Committee on Commerce, Science, and Transportation.

Mr. KENNEDY. Mr. President it's a privilege to introduce this bill to ensure that laid-off aviation industry workers receive first priority when the Federal Government and private security firms under Federal contracts hire new employees. Identical legislation was introduced last week in the House of Representatives by Representative Jane Harman of California, and I commend her for her leadership.

Under our legislation, the Secretary of Transportation will develop regulations giving priority in such hiring for aviation-related security positions to qualified airline workers who were laid-off as a result of the September 11 terrorist attacks.

Those attacks have had a devastating impact on large numbers of the men and women who work in aviation and related industries. Immense job losses have taken place. Since September 11, layoffs of more than 140,000 aviation workers have been announced, and nearly 80,000 of those workers are already out of work. Clearly, Congress should do all it can to help the men and women in the industry who have lost their jobs. These workers should get preference for training and new employment opportunities.

Last week, the Senate passed the aviation security bill that federalizes airport security, including 18,000 baggage screeners and 10,000 other security-related positions. The bill that Representative Harman and I am sponsoring gives first priority in hiring for these airport security jobs to the thousands of men and women who were working in the aviation industry and at airports before September 11, and who have been laid off as a result of the terrorist attacks.

The time to help these workers is now. We must help these workers get back to work. One of the most effective ways to do that is by giving preference to those who lost their jobs for these airport security positions. I urge my colleagues to help these dedicated men and women by supporting this important legislation.

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

S. 1544

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

SECTION 1. PRIORITY IN HIRING.

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall issue regulations directing that the Department of Transportation, agencies within the Department, and private companies contracted to provide aviation-related security shall give first priority in hiring, for employment related to security at airports and on aircraft operated by air carriers in air transportation and intrastate air transportation, to individuals who—

(1) were employed before September 11, 2001—

(A) in a security-related position at an airport;

(B) by an air carrier;

(C) at a facility at, or immediately adjacent to, an airport;

(D) in providing transportation to or from an airport; or

(E) in other employment directly related to commercial aviation;

(2) have been laid off, terminated, released, or otherwise lost their jobs as a result of the terrorist attacks of September 11, 2001; and

(3) are qualified for those positions or for training programs needed to qualify for those positions.

By Mr. INHOFE:

S. 1545. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Finance.

Mr. INHOFE. Mr. President, Today I rise to introduce the Medicare Regulatory and Contracting Reform Act of 2001.

I do so at this time because, within the past month, I have received two letters from Medicare Contractors who are withdrawing their services from some Oklahoma counties and other markets across the country. One letter reads, ''. . .over-regulation will force health plans to make the difficult decision to withdraw from some markets. . .''. Nearly half a million seniors will lose their Medicare+Choice health coverage this year. This is unacceptable. Over-regulation and reimbursement issues plague many Medicare contractors and providers. If we do not act to alleviate the ills of this system, more and more Americans will suffer the consequence.

This legislation will substantially alter the current system to reduce the regulatory burden on Medicare providers, carriers, fiscal intermediaries and beneficiaries, and it will improve the efficiency and quality of the contracting system by which Medicare operates on a daily basis.

In order to help providers, carriers, and beneficiaries understand and implement Medicare regulations, this legislation consolidates the rule-making

process for the Secretary of the Department of Health and Human Services, HHS. It also provides for the education and training of all parties involved. Should this bill become law, the Secretary of HHS will be required to utilize the mechanisms of competition and incentives in the Medicare contracting process. Both competition and incentives increase performance and quality of service. Streamlining the claims-appeals process to expedite reviews and amending the process of payment recovery will further benefit providers. This legislation enhances the technical support for small rural providers that currently do not have the resources to comply with electronic billing requirements. Finally, to directly assist Medicare recipients, this bill establishes a resource person to answer questions and work through obstacles that arise in the health care process.

Passage of this legislation is necessary to stabilize and strengthen a Medicare system that is disintegrating. I am confident that we can bring about beneficial change for millions of Americans who depend on Medicare. I hope that my colleagues will join me in this effort.

Mr. INHOFE. 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. 1545

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Regulatory and Contracting Reform Act of 2001''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

(d) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to compromise or affect existing legal authority for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

SEC. 2. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

''(d) The Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month unless publication on another date is necessary to comply with requirements under law.''.

(2) REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act only be promulgated on a single day every calendar quarter.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation. Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors. In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes a notice of continuation of the regulation that includes an explanation of why the regular timeline was not complied with. If such a notice is published, the regular timeline for publication of the final regulation shall be treated as having begun again as of the date of publication of the notice.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary of Health and Human Services shall provide for an appropriation transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(4) Insofar as a final regulation (other than an interim final regulation) includes a provision that is not a logical outgrowth of the relevant notice of proposed rulemaking relating to such regulation, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 3. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES; TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—Section 1871 (42 U.S.C. 1395hh), as amended by section 2(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the date the change was issued, unless the Secretary determines that such retroactive application would have a positive impact on beneficiaries or providers of services, physicians, practitioners, and other suppliers or would be necessary to comply with statutory requirements.

''(B) No compliance action shall be made against a provider of services, physician, practitioner, or other supplier with respect to noncompliance with such a substantive change for items and services furnished on or before the date that is 30 days after the date of issuance of the change, unless the Secretary provides otherwise.''.

(b) RELIANCE ON GUIDANCE.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2) If—

''(A) a provider of services, physician, practitioner, or other supplier follows the written guidance provided by the Secretary or by a medicare contractor (as defined in section 1889(f)) acting within the scope of the contractor's contract authority with respect to the furnishing of items or services and submission of a claim for benefits for such items or services;

''(B) the Secretary determines that the provider of services, physician, practitioner, or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(C) the guidance was in error;

the provider of services, physician, practitioner or supplier shall not be subject to any sanction if the provider of services, physician, practitioner, or supplier reasonably relied on such guidance.''.

SEC. 4. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (3) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI:

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function or activity in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services, physician, practitioner, or supplier (or class of such providers of services, physicians, practitioners, or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function or activity in relation to that individual, provider of services, physician, practitioner, or supplier or class of provider of services, physician, practitioner, or supplier.

''(3) FUNCTIONS DESCRIBED.—The functions referred to in paragraph (1) are payment functions, provider services functions, and beneficiary services functions as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, physicians, practitioners, and suppliers.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Serving as a center for, and communicating to individuals entitled to benefits under part A or enrolled under part B, or both, with respect to education and outreach for those individuals, and assistance with specific issues, concerns or problems of those individuals.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services, physicians, practitioners, or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Serving as a center for, and communicating to providers of services, physicians, practitioners, and suppliers, any information or instructions furnished to the medicare administrative contractor by the Secretary, and serving as a channel of communication from such providers, physicians, practitioners, and suppliers to the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions described in subsections (e) and (f), relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

''(4) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate functions carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Notwithstanding any law with general applicability to Federal acquisition and procurement and except as provided in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor.

''(C) TRANSFER OF FUNCTIONS.—Functions may be transferred among medicare administrative contractors in accordance with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers.

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide financial incentives and such other incentives as the Secretary determines appropriate for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(3) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements to carry out the specific requirements applicable under this title to a function described in subsection (a)(3).

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(3)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—A medicare administrative contractor shall be liable to the United States for a payment referred to in paragraph (1) or (2) if, in connection with such payment, an individual referred to in either such paragraph acted with gross negligence or intent to defraud the United States.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary of Health and Human Services shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iii) by striking subparagraphs (C), (D), and (E);

(iv) in subparagraph (H)—

(I) by striking ''it'' and inserting ''the Secretary''; and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(v) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,''; and

(D) by striking paragraph (5); and

(E) in paragraph (7) and succeeding paragraphs, by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part shall provide that the medicare administrative contractor'';

(C) in paragraph (4), by striking ''a carrier'' and inserting ''medicare administrative contractor'';

(D) in paragraph (5), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier'' and inserting ''contract under section 1874A that provides for making payments under this part shall require the medicare administrative contractor''; and

(E) by striking paragraph (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary''; and

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2003, and the Secretary of Health and Human Services is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(2) GENERAL TRANSITION RULES.—(A) The Secretary shall take such steps as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(B) Any such contract under such sections 1816 or 1842 whose periods begin before or during the 1-year period that begins on the first day of the fourth calendar month that begins after the date of enactment of this Act may be entered into without regard to any provision of law requiring the use of competitive procedures.

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

SEC. 5. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (i), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services, physicians, practitioners, and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2002, the Secretary of Health and Human Services shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 4(a)(1), is amended by adding at the end the following new subsection:

''(e) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—

''(1) METHODOLOGY TO MEASURE CONTRACTOR ERROR RATES.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services, physicians, practitioners, and suppliers, the Secretary shall develop and implement by October 1, 2002, a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.

''(2) IDENTIFICATION OF BEST PRACTICES.—The Secretary shall identify the best practices developed by individual medicare administrative contractors for educating providers of services, physicians, practitioners, and suppliers and how to encourage the use of such best practices nationwide.''.

(2) REPORT.—Not later than October 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that describes how the Secretary intends to use the methodology developed under section 1874A(e)(1) of the Social Security Act, as added by paragraph (1), in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as the basis for performance bonuses.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 4(a)(1) and as amended by subsection (b), is further amended by adding at the end the following new subsection:

''(f) RESPONSE TO INQUIRIES; TOLL-FREE LINES.—

''(1) CONTRACTOR RESPONSIBILITY.—Each medicare administrative contractor shall, for those providers of services, physicians, practitioners, and suppliers which submit claims to the contractor for claims processing—

''(A) respond in a clear, concise, and accurate manner to specific billing and cost reporting questions of providers of services, physicians, practitioners, and suppliers;

''(B) maintain a toll-free telephone number at which providers of services, physicians, practitioners, and suppliers may obtain information regarding billing, coding, and other appropriate information under this title;

''(C) maintain a system for identifying who provides the information referred to in subparagraphs (A) and (B); and

''(D) monitor the accuracy, consistency, and timeliness of the information so provided.

''(2) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under paragraph (1)(D). The Secretary shall, in consultation with organizations representing providers of services, physicians, practitioners, and suppliers, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2002.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—For each of fiscal years 2003 and 2004, there are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital

Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $10,000,000.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services, physicians, practitioners, and suppliers regarding billing, coding, and other appropriate items.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) an institutional provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a physician, practitioner, or supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(c) INTERNET SITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services, physicians, practitioners, or suppliers, shall maintain an Internet site which provides answers in an easily accessible format to frequently asked questions relating to providers of services, physicians, practitioners, and suppliers under the programs under this title and title XI insofar as it relates to such programs.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(d) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services, physicians, practitioners, or suppliers for the purpose of conducting any type of audit or prepayment review.

''(e) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor—

''(1) of the screens used for identifying claims that will be subject to medical review; or

''(2) of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(f) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893. Such term does not include, with respect to activities of a specific provider of services, physician, practitioner, or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services, physician, practitioner, or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 6. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance is made available, upon request on a voluntary basis, to small providers of services or suppliers to evaluate their billing and related systems for compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) an institutional provider of services with fewer than 25 full-time-equivalent employees; or

(B) a physician, practitioner, or supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary of Health and Human Services shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(f)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services, physicians, practitioners, and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary of Health and Human Services may provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying for 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2003, $1,000,000, and

(2) for fiscal year 2004, $6,000,000.

SEC. 7. MEDICARE PROVIDER OMBUDSMAN.

(a) IN GENERAL.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: ''; MEDICARE PROVIDER OMBUDSMAN'';

(2) by inserting ''PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)'' after ''(a)'';

(3) in paragraph (1), as so redesignated under paragraph (2), by striking ''in this section'' and inserting ''in this subsection'';

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

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

''(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint a Medicare Provider Ombudsman. The Ombudsman shall—

''(1) provide assistance, on a confidential basis, to providers of services, physicians, practitioners, and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services, physicians, practitioners, and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

''(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

''(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

''(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services, physicians, practitioners, and suppliers.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5), amounts as follows:

(1) For fiscal year 2002, such sums as are necessary.

(2) For fiscal year 2003, $8,000,000.

(3) For fiscal year 2004, $17,000,000.

(c) REPORT ON ADDITIONAL FUNDING.—Not later than October 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that includes the Secretary's estimate of the amount of additional funding necessary to carry out such provisions of subsection (b) of section 1868, as so added, in fiscal year 2005 and subsequent fiscal years.

SEC. 8. PROVIDER APPEALS.

(a) MEDICARE ADMINISTRATIVE LAW JUDGES.—Section 1869 (42 U.S.C. 1395ff), as amended by section 521(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new subsection:

''(g) MEDICARE ADMINISTRATIVE LAW JUDGES.—

''(1) TRANSITION PLAN.—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and implement a plan under which administrative law judges responsible solely for hearing cases under this title (and related provisions in title XI) shall be transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services. The plan shall include recommendations with respect to—

''(A) the number of such administrative law judges and support staff required to hear and decide such cases in a timely manner; and

''(B) funding levels required for fiscal year 2004 and subsequent fiscal years under this subsection to hear such cases in a timely manner.

''(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary to increase the number of administrative law judges under paragraph (1) and to improve education and training opportunities for such judges and their staffs, $5,000,000 for fiscal year 2003 and such sums as are necessary for fiscal year 2004 and each subsequent fiscal year.''.

(b) PROCESS FOR EXPEDITED ACCESS TO JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision''; and

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

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of service or supplier that furnishes an item or service or a beneficiary who has filed an appeal under paragraph (1) (other than an appeal filed under paragraph (1)(F)) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that it does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review panel—

''(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

''(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

''(D) REVIEW PANELS.—For purposes of this subsection, a 'review panel' is an administrative law judge, the Departmental Appeals Board, a qualified independent contractor (as defined in subsection (c)(2)), or an entity designated by the Secretary for purposes of making determinations under this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appeals filed on or after October 1, 2002.

(c) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, and as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the first external hearing or appeal at which it could be introduced under this section, unless there is good cause which precluded the introduction of such evidence at a previous hearing or appeal.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(d) PROVIDER APPEALS ON BEHALF OF DECEASED BENEFICIARIES.—

(1) IN GENERAL.—Section 1869(b)(1)(C) (42 U.S.C. 1395ff(b)(1)(C)), as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following: ''The Secretary shall establish a process under which, if such an individual is deceased, the individual is deemed to have provided written consent to the assignment of the individual's right of appeal under this section to the provider of services or supplier of the item or service involved, so long as the estate of the individual, and the individual's family and heirs, are not liable for paying for the item or service and are not liable for any increased coinsurance or deductible amounts resulting from any decision increasing the reimbursement amount for the provider of services or supplier.''.

(2) EFFECTIVE DATE.—Notwithstanding section 521(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 9. RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW; ENROLLMENT OF PROVIDERS.

(a) RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsections:

''(f) RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services, physician, practitioner, or other supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), the Secretary shall enter into a plan (which meets terms and conditions determined to be appropriate by the Secretary) with the provider of services, physician, practitioner, or supplier for the offset or repayment of such overpayment over a period of not longer than 3 years. Interest shall accrue on the balance through the period of repayment.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services, physician, practitioner, or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of

services, physician, practitioner, or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services, physician, practitioner, or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if the Secretary has reason to suspect that the provider of services, physician, practitioner, or supplier may file for bankruptcy or otherwise cease to do business or if there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services, physician, practitioner, or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(2) LIMITATION ON RECOUPMENT UNTIL RECONSIDERATION EXERCISED.—

''(A) IN GENERAL.—In the case of a provider of services, physician, practitioner, or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration of such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in paragraph (9)) to recoup the overpayment until the date the decision on the reconsideration has been rendered.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services, physician, practitioner, or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services, physician, practitioner, or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(3) STANDARDIZATION OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates.

''(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(4) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

''(A) there is a sustained or high level of payment error (as defined by the Secretary); or

''(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

''(5) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services, physician, practitioner, or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(6) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services, physician, practitioner, or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services, physician, practitioner, or supplier in a non-threatening manner that, based on a review of the medical records requested by the Secretary, a preliminary indication appears that there would be an overpayment; and

''(ii) provide for a 45-day period during which the provider of services, physician, practitioner, or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services, physician, practitioner, or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services, physician, practitioner, or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services, physician, practitioner, or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services, physician, practitioner, or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services, physician, practitioner, or supplier agrees not to appeal the claims involved.

''(7) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATION ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare contractor may not initiate non-random prepayment review of a provider of services, physician, practitioner, or supplier based on the initial identification by that provider of services, physician, practitioner, or supplier of an improper billing practice unless there is a sustained or high level of payment error (as defined in paragraph (4)(A)).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.

''(8) PAYMENT AUDITS

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services, physician, practitioner, or supplier under this title, the contractor shall provide the provider of services, physician, practitioner, or supplier with written notice of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services, physician, practitioner, or supplier under this title, the contractor shall—

''(i) give the provider of services, physician, practitioner, or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services, physician, practitioner, or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services, physician, practitioner, or supplier of the appeal rights under this title; and

''(iii) give the provider of services, physician, practitioner, or supplier an opportunity to provide additional information to the contractor.

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(9) DEFINITIONS.—For purposes of this subsection:

''(A) MEDICARE CONTRACTOR.—The term 'medicare contractor' has the meaning given such term in section 1889(f).

''(B) RANDOM PREPAYMENT REVIEW.—The term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(g) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish a process under which the Secretary provides for notice to classes of providers of services, physicians, practitioners, and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services, physicians, practitioners, or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).''.

(b) PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.—

(1) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(A) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

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

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES, PHYSICIANS, PRACTITIONERS, AND SUPPLIERS.—

''(1) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services, physicians, practitioners, and suppliers under this title.

''(2) APPEAL PROCESS.—Such process shall provide—

''(A) a method by which providers of services, physicians, practitioners, and suppliers whose application to enroll (or, if applicable, to renew enrollment) are denied are provided a mechanism to appeal such denial; and

''(B) prompt deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment) and for consideration of appeals.''.

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall provide for the establishment of the enrollment and appeal process under the amendment made by paragraph (1) within 6 months after the date of the enactment of this Act.

(c) PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.—The Secretary of Health and Human Services shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(f) of the Social Security Act, as inserted by section 5(f)(1)) and representatives of providers of services, physicians, practitioners, and suppliers, a process whereby, in the case of minor errors or omissions that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services, physician, practitioner, or

supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process may include the ability to resubmit corrected claims.

SEC. 10. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to medicare beneficiaries at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by medicare beneficiaries.

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and beneficiary satisfaction with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local social security offices.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medical specialists at local social security offices.

SEC. 11. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary of Health and Human Services may not implement any documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines; and

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines.

The Secretary may make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be of sufficient length to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(B) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians.

(2) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(C) at least one shall be conducted in a setting where physicians bill under physicians services in teaching settings and at one shall be conducted in a setting other than a teaching setting.

(3) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits.

(4) STUDY OF IMPACT.—Each pilot project shall examine the effect of the modified evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) enhance clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary of Health and Human Services shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(e) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

By Mr. ROBERTS:

S. 1546. A bill to provide additional funding to combat bioterrorism; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ROBERTS. Mr. President, I rise today to introduce the Bio-Security in Agriculture Act of 2001. I refer to the security of agriculture, our crops, our livestock production.

In the wake of September 11, we increased security of the Capitol, our government buildings, airports, sports venues, and businesses.

We should do the same for our agriculture and our nation's food supply.

I served 2 years as chairman of the Armed Services Subcommittee on Emerging Threats, and now as ranking member of the subcommittee. I'm also on the Intelligence Committee and a member of the Agriculture Committee.

In numerous hearings on terrorism, we repeatedly asked top scientists and biowarfare experts to assess the greatest threats to our nation. One of their greatest concerns has been the susceptibility of U.S. agriculture and the impact an attack on it could have on the agriculture economy and the Nation's food supply.

It would not be difficult to take a disease such as foot-and-mouth so prevalent in Europe and introduce it into the U.S. livestock herd. With the large number of cattle and livestock operations in close proximity to each other in our feedlots and hog facilities it could quickly become an epidemic.

I consider this threat to be real. I know of no specific threat, but I can tell you 2 years ago, when we asked the FBI where is the probability and where is the risk, the probability was rather low. Since the foot-and-mouth disease epidemic overseas and since the events of September 11, I can assure my colleagues the probability is rated much higher. I am not going to get into classified information, but the risk would cause utter chaos in our country.

Such an attack would be devastating. One estimate for California is a loss of $14 billion should foot and mouth disease break out in that state.

We know that the former Soviet Union developed ''tons'' of biowarfare agents aimed at North American agriculture. These include FMD, glanders, rust diseases for wheat and rice, and Karnal Bunt in wheat. There are other diseases that could be introduced as well.

The threat is real. Yet, our federal facilities to test and do research on

both containment and prevention of these diseases are outdated and in need of repair. We have approximately $700 million in the pipeline to upgrade these facilities over the next 6 to 10 years. But we cannot wait for 6 to 10 years. We need to make the investment in these facilities and the research dollars now.

Why is protecting agriculture from terrorist attack important? There are several reasons: Agriculture is one of the few sectors of the economy with a trade surplus; using numbers from 1999; agriculture and agribusiness related industries accounted for approximately 22 million jobs and 16.4 percent of GDP; The overall contribution to the Nation's GDP in 1999 was $1.5 trillion; and the cheap U.S. food supply kept the total portion of individual income spent on food to 10.4 percent, or 10 and one half cents of every dollar, on food in 1999. The lowest percent of income spent on food of any country in the world.

The loss of export markets resulting from the intentional introduction of these pathogens would be dramatic. The introduction of FMD or Karmal Bunt on a widespread basis could mean the total collapse of U.S. export markets.

This would be devastating for a commodity such as wheat where 32 percent of total production was exported in 1999 and to agriculture in general which is one of the few sectors of the economy that operates in a trade surplus. Also, when an outbreak of FMD occurs, many of the animals are often killed to control the spread of the disease.

If a massive herd reduction occurred, it could take several years to replace the lost numbers. Again the ripple effects are enormous. Individual producers will be impacted, feedlots and hog operations could be devastated, meat packers and their employees could be put out of business due to reduced slaughter numbers, and the grain markets would take enormous hits as there would be no where for the excess feed usage to go.

The impact on our Nation of a widespread attack on agriculture could dwarf the airline and travel industry's loss from September 11.

To keep this nightmare scenario from occurring, legislation is necessary to complete the facility upgrades needed to deal with this threat and to provide funding for the additional research to develop risk control methods, first responder response mechanisms, and development of vaccines and plant resistant varieties that are immune to these threats. The need is real, the timing is crucial, and it needs to be done now.

The legislation I am introducing today will provide approximately $3.5 billion to improve and invest on a ''crash course'' to do the building upgrades and research we should have been doing for years.

In fiscal year 2002, the bill calls for $1.1 billion, including: $101 million to allow USDA to meet the security levels required under Presidential Decision Directive, PDD–67, for the animal and plant disease facilities at: Plum Island, NY; the National Animal Disease Center, Ames, IA; the Southeast Poultry Research Laboratory, Athens, GA; the Arthropod-Borne Animal Disease Research Laboratory, Laramie, WY; and the Foreign Disease Weed Science Laboratory, Fort Detrick, MD.

We also provide $722.8 million in fiscal year 2002 to accelerate the planning, upgrading, and construction of four of the above named facilities, including: $234 million for the Plum Island facility; $129 million to renovate the existing Biolevel 3 facilities and $105 million for planning and construction of a Biosafety level 4 facility; $381 million for modernization of the facilities in Ames, IA; $78 million for the planning and design of the biocontainment laboratory for poultry research in Athens, GA; and $29.8 million for the Arthropod-Born Animal Disease Laboratory, Laramie, WY.

The bill provides $10 million in fiscal year 2002 for USDA to purchase, and distribute to each of the states, rapid diagnostic field tests that can give a definitive answer on suspected cases of FMD, Karnal bunt, anthrax, etc., in only 45 minutes.

These test would represent a strengthened line of security replacing the current process where the sample is trucked to an airport, flown to one of the disease labs, tested, and then results are released anywhere from a day to 4 or 5 days later.

We also make a significant investment in research with $2.71 billion provided over the next 10 years to continue work ARS is already doing with state universities and private industry, provide competitive grants for USDA to award to qualified universities and private organizations, and general funding for USDA to use in those areas where it determines we have the most pressing need.

We have worked to keep from tying USDA's hands on this in order to allow them to respond to future needs or threats that may arise, but generally the research could include: Expanding on-the-spot diagnostic capabilities; conducting mapping of microorganisms and pests to pinpoint their geographical origins; genetically engineer diseases that will be effective against agents of bioterrorism concerns; improve plant resistance to potential introduced pathogens; create mass vaccine delivery systems for animals, poultry, and fish; conduct research with foreign countries to help reduce disease threats at the source and remove the natural sources of infectious agents and pests that terrorists or nations might easily access to threaten the United States; develop counter toxins; and develop economic models to assist in risk assessment and prioritization of efforts. Currently, it is difficult to determine the exact economic effect of an attack on the United States because the proper economic models do not exist.

Finally, the bill provides $12 million each year for USDA to work in collaboration with the Oklahoma City counter-terrorism Institute.

This is a significant amount of money. But it is an investment that requires our immediate attention. I do not want us to ignore this issue until it is too late.

Nearly 2½ years ago, as chairman of the Emerging Threats Subcommittee, I warned at our first hearing that the World Trade Center was at risk of terrorist attack because of its symbolism of U.S. economic strength and indulgence. At the time, no one wanted to listen to the warning.

I take no please in my prediction and the events of September 11. But I do not want us to ignore similar warnings and threats on agroterrorism until it is too late. If we do our 10.5 percent of disposable income spent on food in this country could well be a thing of the past.

I urge my colleagues to support me in enacting the Biosecurity for Agriculture Act of 2001.

By Mr. SHELBY:

S. 1547. A bill amend the Internal Revenue Code of 1986 to extend and modify the credit for producing fuel from a nonconventional source, to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to introduce the Nonconventional Natural Gas Reliability Act. This body has moved forcefully and responsibly since the tragic events of September 11 to address the most pressing and immediate needs of the country. However, action on priorities such as comprehensive energy legislation, has been delayed but remains vitally important. As Congress moves forward to address this pressing issue, it is my belief that any comprehensive energy legislation must include provisions designed to increase access to North American natural gas supplies.

Following the energy crisis of the 1970's, Section 29 of the Internal Revenue Code was enacted to provide a tax credit to encourage production of oil and gas from unconventional sources such as Coalbed Methane, Devonian Shale, Tight Rock Formations, and Tight Gas Sands. This credit has helped the industry invest in new technologies that allow us to recover large oil and gas deposits locked in various formations that are very expensive to develop.

In 1998, the United States consumed 22 trillion cubic feet of natural gas. Over the next fifteen years that number is expected to exceed 31 trillion cubic feet. Significant growth in consumption will be particularly evident in the area of electric generation, where environmental issues make natural gas the fuel of choice. The National Petroleum Council predicts that natural gas production by conventional means will remain relatively constant

over the next several years, ultimately falling 7 to 9 trillion cubic feet short of what is needed.

The Gas Technology Institute and the National Petroleum Council estimate that economic incentives may allow nonconventional natural gas to bridge to gap by providing an annual addition of 7 to 9 trillion cubic feet of natural gas to our domestic supply. Section 29 of the Internal Revenue code was designed to provide this economic incentive. For current production, ''section 29'' benefits expire at the end of next year and there are no incentives for new production.

Today I am introducing ''section 29'' legislation which is designed to keep current ''section 29'' wells in production and provide the incentive for new wells to be brought on line. Providing a ''clean'' alternative to conventional natural gas, and keeping all of our existing sources of energy online will continue to be a priority for this great nation in the years to come. My legislation would provide section 29 credits for qualifying new wells and facilities through 2009, and for the continuation of benefits to wells and facilities currently in production through 2006.

Whether it is artificial fracturing of gas bearing formations, extensive dewatering, gas clean-up issues, these nonconventional resources can be significant more expensive to drill, to maintain, and to produce. Thus, it is important to support continued production at existing wells and facilities.

There are few instances where the facts are more compelling and the conclusion so clear. Giving section 29 a new lease on life is a wise investment of taxpayer dollars that will result in lower natural gas prices and greater domestic energy supply. I encourage my colleagues to join with me in support of the Nonconventional Natural Gas Reliability Act.

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. 1547

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 ''Nonconventional Natural Gas Reliability Act''.

SEC. 2. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 of the Internal Revenue Code of 1986 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) EXTENSION FOR OIL AND CERTAIN GAS.—In the case of a well for producing qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1)—

''(A) APPLICATION OF CREDIT FOR NEW WELLS.—Notwithstanding subsection (f), this section shall apply with respect to such fuels—

''(i) which are produced from a well drilled after the date of the enactment of this subsection and before January 1, 2007, and

''(ii) which are sold not later than the close of the 4-year period beginning on the date that such well is drilled, or, if earlier, December 31, 2009.

''(B) EXTENSION OF CREDIT FOR OLD WELLS.—Subsection (f)(2) shall be applied by substituting '2007' for '2003' with respect to wells described in subsection (f)(1)(A) with respect to such fuels.

''(2) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection—

''(A) in the case of fuels sold during 2001 and 2002, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)), and

''(B) in the case of fuels sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.

By Mr. LIEBERMAN (for himself, Ms. MIKULSKI, Mr. BOND, Mr. FRIST, and Mr. DOMENICI):

S. 1549. A bill to provide for increasing the technically trained workforce in the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I am proud to join Senators MIKULSKI, BOND, FRIST, and DOMENICI in introducing an innovative response to one of the greatest challenges to the growth of the Innovation Economy, America's widening talent gap.

Our technological prowess is unequaled in the world today, which is why, despite our recent slowdown and the aftershocks of the September 11 attacks, we still have the strongest, most vibrant economy on the planet, and we obviously have no deficit of ingenuity and inventiveness.

But our long-term competitive standing and economic security could well be at risk if we do not address a troubling trendline in our workforce, the mismatch between the demand and supply of workers with science and engineering training.

The fact is, the number of jobs requiring significant technical skills is projected to grow by more than 50 percent in the United States over the next ten years. But outside of the life sciences, the number of degrees awarded in science and engineering has been flat or declining.

This has helped fuel a well-chronicled shortage of qualified New Economy workers. We have tried to temporarily plug this human capital hole with a stopgap of foreign workers. But there is a broad consensus among high-tech leaders and policymakers that it would be a serious mistake to prolong this dependence and essentially put our GDP at the mercy of H1B's.

That may sound like a bit of an overstatement to some. But the reality is that technological innovation is now widely understood to be the major driver of economic growth, not to mention a critical factor in our military superiority. And it is widely understood that we cannot expand our economy in the future if we don't take steps now to expand our domestic pool of brainpower, the next generation of people who will incubate and implement the next generation of ideas.

Now, most answers to serious economic challenges flow from the private sector, which is where growth ultimately occurs. But there are things that the federal government can do to help, particularly when it comes to educating and training our workforce. We can provide leadership, focus, and not least of all resources, and that is the purpose of the bill we are introducing today.

Our plan aims to fix a critical link in this ''tech talent'' gap, undergraduate education in science, math, engineering, and technology. It would create a new competitive grant program within the National Science Foundation that would encourage institutions of higher learning, from universities to community colleges, to increase the number of graduates in these disciplines.

This is not another scholarship program, but a targeted, results-driven initiative that goes straight to the gatekeepers. We're not asking them to change their admissions policies, but, in effect, to design new ''e-missions'' policies. Come up with effective ideas, and we will provide the dollars to make them work.

For example, institutions could propose to add or strengthen the interdisciplinary components of undergraduate science education. Or they could establish targeted support programs for women and minorities, who are 54 percent of our total workforce, but only 22 percent of scientists and engineers, to increase enrollment in these fields. Or they could partner with local technology companies to provide summer industry internships for ongoing research experience.

The pilot program is authorized at $25 million for Fiscal Year 2002, but our bipartisan coalition hopes the level will rise over the next several years to approximately $200 million annually, based upon pilot program results. With that kind of seed money, we're optimistic thousands of promising new scientists and engineers will soon bloom.

We realize that solving the undergraduate problem is not going to singlehandedly close our talent gap. We must also dramatically reform our K–12 public education system, through innovative initiatives such as Congressman BOEHLERT'S math and science partnerships bill, and strengthen our national investment in R&D. But it is a vitally important piece of the productivity puzzle.

For evidence of that, just look at the collection of letters of support we have received from industry, academia, and professional organizations, including letters from TechNet, a national network of CEOs and senior executives from the leading technology and biotechnology companies; the National Alliance of Business; and STANCO 25 Professor of Economics at Stanford University, Paul Romer, a leading

growth economist, whose pioneering research underscores the long-term talent crisis facing our Nation, and who helped us think through this bill.

These industry, academic, and educational leaders recognize as do we, that in our knowledge-based economy, we must have people who know what they're doing, and that is why they have made this problem and our legislation a top priority. We are grateful for their knowledge and their support, and we look forward to working with them to better harvest the enormous potential of America's workforce.

I ask unanimous consent that letters of support for the Tech Talent bill, from the following organizations and individuals, be printed in the RECORD: TechNet, Professor Paul Romer, National Alliance of Business, Semiconductor Industry Association, American Astronomical Society, K–12 Science, Mathematics, Engineering & Technology Coalition, General Electric, American Association of State Colleges and Universities, and the American Society for Engineering Education.

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

TECHNET,
Palo Alto, CA, October 8, 2001.

Hon. JOSEPH LIEBERMAN,
Hon. BILL FRIST,
Hon. BARBARA MIKULSKI,
Hon. CHRISTOPHER S. ''KIT'' BOND,
Hon. PETE DOMENICI,
Hon. SHERWOOD BOEHLERT,
Hon. JOHN B. LARSON.

DEAR SENATORS LIEBERMAN, FRIST, MIKULSKI, BOND, AND DOMENICI, AND REPRESENTATIVES BOEHLERT, AND LARSON: On behalf of TechNet's 250 technology industry executives, we are writing to lend our strong endorsement and support for your legislation to increase the technically trained workforce in the United States: the Tech Talent Bill. TechNet considers the lack of a highly skilled American workforce a serious threat to our nation's future economic and technology growth.

Recent economic studies have shown that technological progress accounts for more then half of the U.S. economic growth in the post-war period. Correspondingly, a workforce highly trained in science, mathematics, engineering and technology (SMET) is fundamental to our nation's ability to remain competitive. Yet despite predictions that the number of jobs requiring technical skills will grow by 51% over the next decade, from the late 80's to the late 90's the number of earned bachelor's degrees has decreased by 18% in engineering and by 36% in math and computer science.

We commend you for taking the lead with a bold and innovative approach to reverse this perilous trend. The Tech Talent bill would authorize funding for the National Science Foundation (NSF) to distribute grants to colleges and universities that agree to specific increases in the number of students who are U.S. citizens or permanent residents obtaining degrees in science, math, engineering and technology. The NSF would solicit and competitively award grants, based on a peer-review evaluation, to proposals from colleges and universities with promising and innovative programs to increase the number of graduates in the specified disciplines.

A well-prepared workforce coupled with a strong emphasis on R&D is the only way to ensure a healthier, economically solid, and technologically advanced future for America. We appreciate your steadfast support of policies toward this end, and we urge you to press forward with this legislation in both chambers. Please let us know how we can best support a swift passage of the Tech Talent bill. Thank you for considering our views on this important issue.

Best regards,

Jim Barksdale, Partner, The Barksdale Group.

John Doerr, Partner, Kleiner, Perkins, Claufield, & Byers.

Rick White, President & CEO, TechNet.

Carol Bartz, CEO & Chairman of the Board, Autodesk, Inc.

Craig Barrett, CEO, Intel Corporation.

Eric Benhamou, Chairman, 3Com.

Hale Boggs, Partner, Manatt, Phelps & Phillips, LLP.

Bob Brisco, CEO, CARSDIRECT.COM.

Sheryle Bolton, Chairman & CEO, Scientific Learning Corporation.

Richard M. Burnes, Jr., Partner, Charles River Ventures.

Daniel H. Case III, Chairman & CEO, JP Morgan H & Q.

Bruce Claflin, President & CEO, 3Com.

Ron Conway, Founder and General Partner, Angel Investors, LLP.

Joe Cullinane, CEO Telum Group, Inc.

Dean DeBiase, Chairman Autoweb.

Aart de Geus, CEO and Chairman, Synopsys.

Paul Deninger, Chairman & CEO, Broadview International LLC.

Gary Dickerson, Chief Operating Officer, KLA-Tencor Corporation.

William H. Draper III, General Partner, Draper Richards L.P.

Thomas J. Engibous, Chairman, President & CEO, Texas Instruments.

Carl Feldbaum, President, Biotechnology Industry Organization.

Boris Feldman, Partner, Wilson, Sonsini, Goodrich & Rosati.

Ken Goldman, CFO, Siebel Systems.

Christopher Greene, President & CEO, Greene Engineers.

Michael D. Goldberg, Managing Director, JasperCapital.

Nancy Heinen, Senior VP, General Counsel, Apple.

Jeffrey O. Henley, Executive VP & CFO, Oracle Corporation.

Bob Herbold, Executive Vice President & COO, Microsoft Corporation.

Casey Hoffman, CEO & Founder, Supportkids.com.

Guy Hoffman, Venture Partner, TL Ventures.

Kingdon R. Hughes, President, Rush Network.

Scott Jones, Chairman & Chief Executive Officer, Escient.

Nicholas Konidaris, CEO, Advantest America, Inc.

David Lane, Partner, Diamondhead Venture Management LLC.

Paul Lippe, CEO, SKOLAR.

Arthur D. Levinson, PhD, Chairman & CEO, Genetech.

Ken Levy, Chairman, KLA-Tencor Corporation.

Lori P. Mirek, President & CEO, Currenex—Global Financial Exchange.

Henry Samueli, PhD, Co-Chairman & CTO, Broadcom Corporation.

Douglas G. Scrivner, General Counsel, Accenture.

Stratton Sclavos, President & CEO, VeriSign Inc.

Gary Shapiro, President & CEO, Consumer Electronics Association.

Rohit Shukla, President & CEO, LARTA.

Gregory W. Slayton, President and CEO, ClickAction.

Ted Smith, Chairman, FileNET.

Robert W. Sterns, Principal, Sternhill Partners.

George Sundheim III, President, Doty, Sundheim & Gilmore.

John Young, Retired President & CEO, Hewlett Packard.

STANFORD UNIVERSITY,
GRADUATE SCHOOL OF BUSINESS,
Stanford, CA, October 10, 2001.

Senator CHRISTOPHER BOND,
Senator PETE DOMENICI,
Senator WILLIAM FRIST,
Senator JOSEPH LIEBERMAN,
Senator BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND, DOMENICI, FRIST, LIEBERMAN, AND MIKULSKI: Your Tech Talent bill will reinvigorate one of the most successful policies in the history of our nation—government support for broad undergraduate training in science and engineering. Since the end of the 19th century, people trained in these areas have turned scientific opportunity into technological progress. With their help, we harnessed the twin engines of the market and technology. Together, these engines powered the United States into our current position of unchallenged worldwide political and economic leadership.

Unfortunately, success breeds complacency. In recent decades, our achievements in undergraduate science education have fallen behind those in many other countries.

In the domain of the market, our government fostered growth by doing less. It stood aside and gave people the freedom to start new ventures, introduce new products, and improve on old ways of doing things. By contrast, in the domain of technology, our government fostered growth by doing more, but in a way that supported market competition. The Morrill Acts of 1862 and 1890 created a new type of university, one committed not to an elite study of art or science for its own sake. Instead, these new institutions emphasized the practical application of knowledge. They offered instruction in the ''agricultural and mechanic arts'' and the various branches of science, with ''special reference to their application in the industries of life.'' The land grant universities created and supported by these acts helped many more farmers and miners, tinkerers and inventors, entrepreneurs and managers, engineers and researchers compete in the market by developing new technologies or applying technologies developed by others.

Since World War II, the federal government has wisely increased its support for basic research by current university professors and graduate training of future professors. Unfortunately, this support seems to have come at the expense of our early commitment to undergraduate education in science and engineering. At the beginning of the 20th century, this commitment put us far ahead of the rest of the world. At the beginning of the 21st century, we lag behind many other countries according to such basic measures as the fraction of all 24-year-olds who receive an undergraduate degree in engineering or the natural sciences.

Your bill can begin our return to worldwide leadership in undergraduate science and engineering education. It will reward colleges and universities that devote more effort to teaching, that develop innovative instructional materials, that pull students into science instead of ''weeding them out.''

If we can increase the number of undergraduates who receive science and engineering degrees our companies will have more highly skilled workers. Our schools will have more math and science teachers. Our Ph.D.

programs will have more qualified applicants. Our economy will grow faster and our nation will be stronger.

Sincerely yours,

PAUL M. ROMER.

OCTOBER 5, 2001.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: We commend you for your leadership in sponsoring the Technology Talent bill. This bill focuses attention on an important workforce issue for business and for America's growing knowledge-based economy—the need to increase the number of U.S. students graduating with degrees in mathematics, science, engineering, and technology from the nation's universities and community colleges.

American businesses face a constant challenge to find sufficient numbers of professionals with proficiency in these key disciplines. The number of students graduating with degrees in these fields has both failed to keep pace with an ever-increasing demand, and actually declined. Since 1990, for example the number of bachelor degrees in electrical engineering awarded at U.S. universities has declined 37 percent. We must address this need if the United States is to maintain its economic and technological leadership.

The demonstration grant program established by the Tech Talent bill will provide new incentives for universities, colleges, and community colleges to increase the number of graduates with bachelor and associate degrees in science, mathematics, engineering and technology. The bill also will encourage mentoring, bridge programs from secondary to postsecondary education, and creative approaches for traditionally underrepresented groups to earn degrees in these disciplines.

We look forward to working with you and your colleagues to secure enactment of this legislation.

Sincerely,

3M Company; AeA.; AT&T.; Business-Higher Education Forum; Compaq Computer Corporation; IBM Corporation; Information Technology Association of America; Intel Corporation; Minority Business RoundTable; Motorola; National Alliance of Business; National Venture Capital Association; Northern Virginia Technology Council; SchoolTone Alliance; Semiconductor Industry Association; Software and Information Industry Association; TechNet; Texas Instruments; Verizon; and Williams.

SIA,
San Jose, CA, October 3, 2001.

Re Tech Talent Act.

Hon. JOSEPH LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: The Semiconductor Industry Association applauds your introduction of the Technology Talent Act as an important action to expand the technically trained workforce in the United States.

Over the next five to fifteen years, the semiconductor manufacturing process that the industry has used for the past thirty years will have reached its physical limits. It will take significant investments to develop the human resources necessary to develop replacement processes and electronic device structures. Absent these investments, the continued productivity gains that our economy has enjoyed from information technology advances will be lost.

The demonstration program established by the Tech Talent bill will provide incentive for universities, colleges and community colleges to increase the number of graduates with bachelors and associates' degrees in science, mathematics, engineering and technology. We are pleased that the bill encourages mentoring programs, bridge programs and other innovative approaches to helping increase the number of U.S. students graduating with degrees in these disciplines. That should not only help to increase the supply by retaining more of the students who are already enrolled, but also help attract more students from traditionally under-represented groups to pursue careers in our industry and other high tech sectors.

We look forward to working with you and your colleagues to help ensure the legislation's swift and favorable consideration. Thank you again for your leadership on this issue.

Sincerely,

GEORGE SCALISE,
President.

AAS,
Pasadena, CA, September 10, 2001.

Re Tech Talent Bill.

Hon. JOSEPH LIEBERMAN,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to thank you and your colleagues for introducing the ''Tech Talent Bill''. I will work to support this legislation as it moves through Congress.

As you know, the decline in our technical workforce is negatively affecting our national economy and worldwide competitiveness. The American Institute of Physics (AIP) has tracked the number of students earning doctorates from U.S. institutions in the physical sciences since 1962. Today, roughly 1,350 doctorates are awarded each year. In 1970, this number was nearly 1,600. Although this statistic does fluctuate from year to year, it has steadily declined over the last several years, dropping 11% between 1994 and 1998. Additionally, the fraction of foreign students earning doctorates has increased dramatically. According to AIP statistics, 46% of physics doctorates are foreign nationals.

The Administrator of NASA, Dan Goldin, highlighted this problem in a recent article in the Atlantic magazine (September 2001). In this article, he points out that due to the small number of qualified engineers and physical scientists, design, construction and operation of space probes is becoming difficult. Although not for certain, he suggests that this shortage may have played a role in the recent failures of the Mars Polar Lander and Mars Climate Orbiter. According to Mr. Goldin, nearly as many students earn undergraduate degrees in parks, recreation and leisure as earn degrees in electrical engineering. This is a shocking fact for a Nation built on technology and science.

By motivating universities to increase the number of students earning physical science degrees, this legislation will have a direct impact on this problem. I strongly support the ''Tech Talent Bill'' and hope to work with you to ensure its passage in this Congressional term.

Sincerely,

ANNEILA SARGENT,
President.

K–12 SCIENCE, MATHEMATICS, ENGINEERING & TECHNOLOGY EDUCATION COALITION,
October 15, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The K–12 Science, Mathematics, Engineering, and Technology Education Coalition commends you and Senators Frist, Mikulski, and Bond for introducing the ''Tech Talent'' bill, designed to increase the United States' technically trained workforce. It is imperative to develop a highly skilled workforce to maintain our national security and foster future economic growth. We believe that the journey begins before college.

We are pleased that your legislation encourages universities to partner with community colleges, industry organizations, professional societies and local schools to pave the way for students of all ages and backgrounds to further their interests in science, mathematics, engineering and technology (SMET) coursework and career paths.

In October of this year, the deans of engineering and the deans of education from 50 universities met in concert to develop strategic collaborations to enhance K–12 teacher preparation in SMET and to invigorate engineering education. Collaborations of this type can and should be replicated by more universities and across all science, mathematics, engineering, and technological disciplines.

This bill will assist in the development and implementation of innovative approaches to increasing enrollments and graduates in key SMET degrees, which is critical to our economy, our national security, and the future job prospects of our children. Providing incentives and rewards to educational institutions for increasing SMET enrollments and graduates is an excellent approach to jumpstart that process.

We applaud your dedication and foresight in protecting and enhancing America's future workforce.

If we can be of further assistance, please contact Patti Burgio at 202.785.7385.

GE CORPORATE RESEARCH & DEVELOPMENT, THE GENERAL ELECTRIC COMPANY,
October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The General Electric Company highly commends you, along with Senators Bond, Mikulski, Frist, and Domenici and Representatives Boehlert and Larson, for introducing the ''Tech Talent'' bill. We fully endorse and support the revival of a highly technical workforce in the United States.

While our company embraces technical expertise from around the globe, we believe it is vital to our nation's long-term economic strength to grow and develop our domestic talent as well. This legislation will create that strength without discriminating against global technical talent.

We applaud your approach to creating a grant program that itself inspires colleges and universities to take a creative and innovative approach to broadening science, mathematics, engineering and technology enrollment. We believe that this approach will not result in a one-time spike in enrollment, instead it enables a fundamental change in philosophy for a long-term increase in technical education.

There is no better time for this legislation. Our nation's economy is heavily dependent on a highly skilled workforce, with more than 50 percent of our economic growth stemming from technological progress. We look forward to assisting you in any way possible with this legislation. Thank you for your continued support of technology and innovation initiatives in America.

Sincerely,

SCOTT C. DONNELLY,
Senior Vice President.

AMERICAN ASSOCIATION OF
STATE COLLEGES AND UNIVERSITIES,
Washington, DC, October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the American Association of State Colleges and Universities (AASCU) I am writing to express our strong support for the, ''Technology Talent Act of 2001.'' AASCU is comprised of more than 430 public colleges, universities and systems of public higher education located throughout the United States and its territories. Our Connecticut members include: Central Connecticut State University, Eastern Connecticut State University, Southern Connecticut State University, Western Connecticut State University and the Connecticut State University System.

AASCU truly appreciates your leadership in recognizing the need to increase the nation's technically trained workforce, as well as your commitment to address this need by introducing legislation that will, if adequately funded, go a long way towards achieving this goal. AASCU strongly supports the legislation's requirement that at least one principal investigator be in a position of administrative leadership at the institution of higher education. This requirement will ensure that the commitment for increasing the number of bachelor's degrees will be institution wide. Additionally, we believe the legislation's priority to award grants to institutions that draw on previous and existing efforts in improving undergraduate learning and teaching is right on target.

Again, thank you for your leadership on this issue. We look forward to working with you as the ''Technology Talent Act of 2001'' progresses through the legislative process.

Sincerely,

EDWARD M. ELMENDORF,
Vice President for Government Relations and Policy Analysis.

AMERICAN SOCIETY FOR
ENGINEERING EDUCATION,
Washington, DC, October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the members of the Engineering Deans Council (EDC) of the American Society for Engineering Education (ASEE), we are writing to thank you for introducing the Tech Talent bill, which is intended to increase the technically trained workforce of our nation. Now more than ever it is important for Americans to focus on strengthening and increasing the science and technology workforce of the United States.

Engineering schools have a major role to play in efforts to expand the nation's technical workforce. We are very interested in examining the provisions of the competitive grant program to be established at the National Science Foundation. Those that are intended to increase the number of U.S. citizens or permanent residents obtaining degrees in science, mathematics, engineering or technology (SMET) can be helpful to all of us in engineering education. The incentives to degree-granting institutions to encourage creative ways of recruiting students who may not earlier have felt they could succeed in these fields will insure innovative, aggressive program proposal submissions. We are glad to see that strong emphasis will be placed on an evaluation of methods employed in the grant activities.

This legislation will provide an opportunity to build on the activities that many of our colleges have underway, including mentoring high school students and engaging them in other activities designed to interest them in enrolling in SMET programs. Earlier this year we held the first Engineering Deans Council panel discussion on opportunities for collaboration between engineering and education schools. At the beginning of October pairs of deans of engineering and deans of education met for the ''Deans Summit'' in Baltimore. The purpose of this conference was to stimulate these deans to develop collaborations, which would result in programs to improve the quality of preparation of students for SMET careers. As participants in the Deans Summit, we can testify that many innovative programs were developed by pairs of deans from the institutions represented. We think this legislation will be very helpful to these collaborations. Many of the institutions will be very eager to develop proposals in response to its provisions. The incentives provided in this bill will certainly attract attention, and we think will achieve the purpose of increasing enrollments as well as improve the quality of preparation.

The Engineering Deans Council of the American Society for Engineering Education (ASEE) is the leadership organization of the more than 300 deans of engineering in the United States. Founded in 1893, ASEE is a nonprofit association dedicated to the improvement of engineering and engineering technology education.

We greatly appreciate your strong and continuing interest in and support for the development of our nation's scientific and technical workforce. If we can be of further assistance, please do not hesitate to get in touch with us.

Sincerely,

CARL E. LOCKE, Jr.,
Dean of Engineering, University of Kansas-Lawrence, Chair, Engineering Deans Council.

DAVID N. WORMLEY,
Dean of Engineering, Pennsylvania State University, Vice Chair, Engineering Deans Council.

Mr. FRIST. Mr. President, I am proud to join Senators LIEBERMAN, MIKULSKI, BOND and DOMENICI in introducing the Tech Talent bill. This legislation will build on and compliment legislation I introduced earlier this year, the Math and Science Partnership Act.

Today, we are talking about college math and science majors and their role in our economic and scientific future. But, precollege science and math instruction has an important relationship to the future supply of U.S. scientific and technological personnel as well. For example, students who take rigorous mathematics and science courses in high school are much more likely to go on to college than those who do not.

Data from the National Educational Longitudinal Study reveal that 83 percent of students who took algebra I and geometry, and nearly 89 percent of students who took chemistry, went on to college, compared to only 36 percent of students who did not take algebra and geometry and 43 percent of students who did not take chemistry. Yet 31 percent of our college bound high school seniors did not take four years or more of mathematics, and 51 percent of college bound high school seniors did not take four years or more of science.

There is another link between precollege and college math and science instruction: before you can major in science or math in college, you must have a strong understanding of the basics. Yet, the most recent NAEP science assessments showed that only approximately one-third of our 4th, 8th and 12th grade students were performing at the basic level. And only 3 percent of the students at all three grade levels reached the advanced level of scientific proficiency.

The Math and Science Partnership program, which is now part of the education reform bill, authorizes $900 million in 2002 to enhance K–12 math and science education. It will help more of our children learn the basics of math and science and encourage more of them to go to college.

The Tech Talent Bill will make sure that once they get to college, they are encouraged to complete the loop: major in science, engineering or computer science so that we can fill the high tech jobs that are fundamental to our nation's future prosperity and to our ability to remain competitive in an increasingly global marketplace.

The Tech Talent Bill rewards colleges and universities that increase the number of math and science majors that graduate. And the bill lets the universities figure out the best way to do so. It will not stifle creativity. Our economy needs a workforce highly trained in science, mathematics, engineering and technology, and that is why I believe this bill is very important, and should be a top priority.

I am proud to support this bill, and I commend Senator LIEBERMAN for his leadership on this issue.

Mr. DOMENICI. Mr. President, innovation drives a significant part of our domestic economy; it's absolutely vital in maintaining our standard of living. Estimates are that at least half of our economic growth in the post-WWII period was driven by advanced technologies.

Innovation is especially critical today at a time when our economy has shown significant weaknesses. We need to continue to look toward our ability to innovate, to bring new products and processes to the market place, to help spur recovery.

Innovation depends on many factors, ranging from the research done in our superb universities and laboratories to the flow of capital investments into entrepreneurial start-up companies. One of the very key factors is the existence of a well qualified workforce, ready to support high technology industries. Increasingly, preparation of that workforce is at risk in the United States, this should be cause for great concern.

That's why I welcome this opportunity to join with Senators LIEBERMAN, BOND, MIKULSKI, and FRIST, as well as with Congressmen BOEHLERT and LARSON, to provide my support as an original co-sponsor of the

Tech Talent Bill. This bill can help to reverse disturbing trends in the technical credentials of our future workforce.

Studies show that the number of jobs requiring technical training will increase by 51 percent over the next decade. Six million new technical openings are projected to be needed by 2008. But the trend is exactly the opposite, our number of bachelor's degrees has dropped 21 percent in engineering and 32 percent in math and computer science over the last decade.

In the last few years, we've filled many technical positions with foreign workers, and we've heard repeated cries from our high tech industries about their need for larger visa programs to allow these workers to enter the country. In addition, increasing numbers of our undergraduate and graduate students are citizens of another country.

Frequently, both foreign students who have completed technical studies in the United States and foreign technical workers admitted under special visas return to their native lands. That fuels a continuing outflow of technical expertise from our country.

That's good for other countries, who are striving to build up their technical capabilities, but it sure isn't good for the United States. The trend is ominous. In 1985, we led most countries in the number of research personnel as a percent of our workforce. In 1998, we were well behind countries like Japan.

This trend is even worse if we look at young technical workers, because much of our strength is from older workers from past years when technical education was more popular here. If we look at the fraction of 24 year-old workers with technical training, the U.S. lags behind many countries including Japan, Korea, Germany, Ireland, Canada, France and the United Kingdom.

This problem is even more evident if we look at the fraction of bachelor-level degrees awarded in science and engineering. In the United States, the figure is about one-third. But in China, our one-third is replaced by their 72 percent, and Japan, Russia and Brazil exceed 60 percent. In all of Asia, 47 percent of all degrees are in science and engineering. It's even worse if we focus on engineering, where 5 percent of our bachelor's degrees are awarded. In China, that figure is 46 percent. And that figure is 30 or more percent in countries like Germany, Russia, Singapore, and Finland, and over 20 percent in many countries including Japan, France and Sweden.

Traditionally, the United States has led the world in patents. But if we look at the growth in patenting in the U.S. and elsewhere, the trend is serious. Countries like Japan have higher growth rates in patenting then we do.

I already noted the importance of innovation in driving our economic growth. We don't compete well in the international marketplace on manufacture of low-tech goods. In fact, where a product has been on the market for awhile, other countries tend to capture the manufacturing market. That's why it's so critical that we maintain a strong flow of innovative products it's in the newest, highest technology, products that we are most competitive.

We can't afford to maintain some of the current trends. We were graduating about 18,000 students a year with bachelor's degrees in the physical sciences in the 1970s, today that figure is around 15,000. As another bad example, our graduates in mathematics have fallen to about half the 25,000 graduates per year in the 1970s.

We need to reverse these trends. We need to excite more students to pursue technical careers. We need to do far better at showing students the opportunities that can open for them if they pursue technical paths in their education.

This bill will help in this quest. By providing grants to schools and community colleges to increase their production of technical workers, we are providing direct motivation to the schools which have a significant hand in guiding students into various fields. These grants will serve to challenge schools to find better, more convincing, approaches to encourage student behavior.

It was particularly important to me that this bill offer these incentives at the community college level. Students are increasingly finding that these institutions offer the best match to their educational needs. It will be at the community college level that we can excite many new students who might have chosen other specialities.

Reversing the trends I've described won't happen overnight, it will take many years. But the future benefits to our your people and to our nation are immense. I'm pleased to join the cosponsors of this important bill in seeking to address this very real issue.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1902. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1902. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 125, line 16, before the period at the end of the line insert the following: '': *Provided further*, That, of the funds appropriated under this heading, not less than $400,000 shall be made available on a grant basis as a cash transfer for support of the Foundation for Children at Risk Donald J. Cohen and Irving B. Harris Center for Trauma and Disaster Intervention, housed at the Tel Aviv Mental Health Center, whose counseling of children and families and training of mental health professionals are crucial to reducing the human suffering and repairing the societal damage from violence against civilians of all faiths in Israel, Israeli settlements, and territory administered by the Palestinian Authority''.

AVIATION SECURITY ACT

On October 11, 2001, the Senate passed S 1447, as follows:

S. 1447

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 ''Aviation Security Act''.

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