By Mr. MCCAIN (for himself, Mr. CLELAND, Mrs. HUTCHISON, and Mr. MURKOWSKI):

S. 127. A bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. HAGEL, Mr. DASCHLE, Mr. FEINGOLD, Mr. BINGAMAN, Mr. CONRAD, and Mr. ROBERTS):

S. 128. A bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CLELAND:

S. 129. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as ''Gold Star Parents'') of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

By Mr. JOHNSON:

S. 130. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Ms. COLLINS):

S. 131. A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE, and Mr. CONRAD):

S. 132. A bill to amend the International Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

By Mr. BAUCUS:

S. 133. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):

S. 135. A bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the medicare program; to the Committee on Finance.

By Mr. GRAMM:

S. 136. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to extend trade negotiating and trade agreement implementing authority; to the Committee on Finance.

By Mr. GRAMM:

S. 137. A bill to authorize negotiation of free trade agreements with countries of the Americas, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 138. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. BENNETT:

S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

By Mr. GRAMM:

S. 140. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mrs. MURRAY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, and Mr. BREAUX):

S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE):

S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, Mr. BOND, Mr. TORRICELLI, Mr. ALLARD, and Mr. CRAPO):

S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. GRAMM:

S.J. Res. 2. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUYE:

S. Res. 11. A resolution expressing the sense of the Senate reaffirming the cargo the cargo preference policy of the United States; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 12. A resolution relative to the death of Alan Cranston, former United States Senator for the State of California; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, Ms. STABENOW, and Mr. SCHUMER):

S. Res. 13. A resolution expressing the sense of the Senate regarding the need for Congress to enact a new farm bill during the 1st session of the 107th Congress; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mrs. MURRAY, Mr. WELLSTONE, Mr. DORGAN, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. SCHUMER, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. CORZINE, Mr. BIDEN, Mr. KERRY, and Mr. REED):

S. 6. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

PATIENTS' BILL OF RIGHTS ACT

Mr. DASCHLE. 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. 6

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 ''Patients' Bill of Rights Act''.

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

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

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

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

(I) receives a request for a prior authorization;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) ONGOING CARE.—

(A) CONCURRENT REVIEW.—

(i) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

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

(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) FAILURE TO MEET DEADLINE.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 113, respectively.

(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

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

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

SEC. 102. INTERNAL APPEALS PROCEDURES.

(a) RIGHT OF REVIEW.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) TREATMENT OF ORAL REQUESTS.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) INTERNAL REVIEW PROCESS.—

(1) CONDUCT OF REVIEW.—

(A) IN GENERAL.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B)), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term ''limited scope coverage'' means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(2)).

(2) TIME LIMITS FOR INTERNAL REVIEWS.—

(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

(I) receives a request for internal review;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) PROCESS.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 103. EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

(A) IN GENERAL.—For purposes of this section, the term ''externally appealable decision'' means a denial of claim for benefits (as defined in section 101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) FILING FEE REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed $25.

(B) EXCEPTION FOR INDIGENCY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external

appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) LIMITATION ON PLAN OR ISSUER SELECTION.—

(i) IN GENERAL.—The applicable authority shall implement procedures—

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

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

(ii) LIMITATION ON ABILITY TO INFLUENCE SELECTION.—No selection process established by the applicable authority under this subsection shall provide the participant, beneficiary, or enrollee or the plan or issuer with the ability to determine or influence the selection of a qualified external appeal entity to review the appeal of the participant, beneficiary, or enrollee.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

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

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE DEFINITIONS.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) EVIDENCE.—

(i) IN GENERAL.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more Government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by Government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than three clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(i) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(ii) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(II).

(D) REQUIREMENT OF SUFFICIENT NUMBER OF CERTIFIED ENTITIES.—The appropriate Secretary shall certify and recertify a sufficient number of external appeal entities under this paragraph to ensure the timely and efficient provision of external review services.

(3) INDEPENDENCE REQUIREMENTS.—

(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) RELATED PARTY.—For purposes of this paragraph, the term ''related party'' means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage; or

(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(1) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) ADDITIONAL CIVIL PENALTIES.—

(A) IN GENERAL.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(ii) $500,000.

(4) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) PROTECTION OF LEGAL RIGHTS.—Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

SEC. 104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) GRIEVANCE DEFINED.—In this section, the term ''grievance'' means any question, complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 101(f)(1)).

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which

provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

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

(b) SPECIALISTS.—

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

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

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

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization; or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)); and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. 114. ACCESS TO SPECIALTY CARE.

(a) SPECIALTY CARE FOR COVERED SERVICES.—

(1) IN GENERAL.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer;

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist; and

(C) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee); and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(A) is life-threatening, degenerative, or disabling; and

(B) requires specialized medical care over a prolonged period of time.

(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) STANDING REFERRALS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SEC. 115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for coverage of gynecological care (including preventive women's health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered; and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

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

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child's primary care provider.

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

SEC. 117. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

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

(A) ONGOING SPECIAL CONDITION.—The term ''ongoing special condition'' has the meaning given such term in section 114(b)(3), and also includes pregnancy.

(B) TERMINATION.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation; and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

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

(2) provide for disclosure of the formulary to providers; and

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

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

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

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act,

without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

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

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance

with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) NOTICE OF REQUIREMENTS.—Notice of the requirements of this title.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 101, including under any drug formulary program under section 118.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(6) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

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

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

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

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

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

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

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

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

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

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

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

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

(1) ACTIVELY PRACTICING.—The term ''actively practicing'' means, with respect to a physician or other health care professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

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

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

(3) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

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

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

(8) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

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

(10) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

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

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

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

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

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

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

SEC. 153. EXCLUSIONS.

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

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

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

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

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

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

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

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

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

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

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

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

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

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

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.''.

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

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

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

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

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

''(A) Section 112 (relating to choice of providers).

''(B) Section 113 (relating to access to emergency care).

''(C) Section 114 (relating to access to specialty care).

''(D) Section 115 (relating to access to obstetrical and gynecological care).

''(E) Section 116 (relating to access to pediatric care).

''(F) Section 117(a)(1) (relating to continuity in case of termination of provider contract) and section 117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(G) Section 118 (relating to access to needed prescription drugs).

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

''(I) Section 134 (relating to payment of claims).

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

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 102 and 104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

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

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

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

''(D) Section 135 (relating to protection for patient advocacy).

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

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Patients' Bill of Rights Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

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

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Patients Bill of Rights Act in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b))'' after ''part 7''.

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) (as amended by section 301(b)) is amended further by adding at the end the following subsections:

''(f) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

''(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

''(B) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

''(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 103 of the Patients' Bill of Rights Act);

''(II) an external appeal with respect to such decision was completed under such section 103;

''(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

''(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

''(ii) EXCEPTION.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

''(C) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(2) EXCEPTION FOR GROUP HEALTH PLANS, EMPLOYERS, AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

''(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

''(C) EXCEPTION.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

''(i) the decision to include or exclude from the plan any specific benefit;

''(ii) any decision to provide extra-contractual benefits; or

''(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

''(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is required to exhaust administrative processes under sections 102 and 103 of the Patients' Bill of Rights Act, unless the injury to or death of such individual has occurred before the completion of such processes.

''(4) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

''(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

''(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

''(g) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

''(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of enactment of this Act, from which a cause of action arises.

SEC. 303. LIMITATIONS ON ACTIONS.

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

''(n)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Patients' Bill of Rights Act (as incorporated under section 714).

''(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 119, or 118(3) of the Patients' Bill of Rights Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

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

''Sec. 9813. Standard relating to patient freedom of choice.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

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

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2002 (in this section referred to as the ''general effective date'') and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through

the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) ESTABLISHMENT OF PANEL.—

(1) ESTABLISHMENT.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the ''Panel'').

(2) DUTIES OF PANEL.—

(A) IN GENERAL.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) DEFINITION.—For purposes of this section, the term ''third-party health care payer'' means any entity that contractually pays health care bills for an individual.

(3) MEMBERSHIP.—

(A) SIZE AND COMPOSITION.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

(C) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) PROCEDURES.—

(A) MEETINGS.—The Panel shall meet at the call of a majority of its members.

(B) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Patients' Bill of Rights Act.

(C) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

(D) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) ADMINISTRATION.—

(A) COMPENSATION.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) CONTRACT AUTHORITY.—The Panel may contract with and compensate Government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) SUBMISSION OF FORM.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) TERMINATION.—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

SEC. 602. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mrs. MURRAY, Mr. WELLSTONE, Mr. DORGAN, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. SCHUMER, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. CORZINE, Mr. BIDEN, Mr. KERRY, and Mr. REED)

S. 7. A bill to improve public education for all children and support lifelong learning; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL EXCELLENCE FOR ALL LEARNERS ACT OF 2001

Mr. DASCHLE. 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.7

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 ''Educational Excellence for All Learners Act of 2001''.

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

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

TITLE I—HOLDING SCHOOLS ACCOUNTABLE

SEC. 100. SHORT TITLE.

This title may be cited as the ''School Improvement Accountability Act''.

Subtitle A—Helping Disadvantaged Children

SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.

Section 1003 (20 U.S.C. 6303) is amended to read as follows:

''SEC. 1003. RESERVATION FOR ACCOUNTABILITY AND SCHOOL IMPROVEMENT.

''(a) STATE RESERVATION.—

''(1) IN GENERAL.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

''(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall allocate at least 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies, and agencies serving schools, identified for corrective action or improvement under section 1116(c).

''(3) USE OF FUNDS.—Each local educational agency receiving an allotment under paragraph (2) shall use the allotment to—

''(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

''(B) achieve substantial improvement in the performance of those schools.

''(b) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.30 percent to conduct evaluations and studies and to collect data.''.

SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking ''AND ASSESSMENTS'' and inserting '', ASSESSMENTS, AND ACCOUNTABILITY'';

(2) by amending paragraph (2) to read as follows:

''(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State's accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

''(B) The specification of adequate yearly progress in the State plan for schools—

''(i) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3);

''(ii) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this section within 10 years after the effective date of the School Improvement Accountability Act;

''(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the inclusion of such indicators shall not decrease the number of schools or local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

''(iv) shall compare separately data for the State as a whole, for each local educational agency, and for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such disaggregation shall not be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal individually identifiable information about individual students); and

''(v) shall compare the proportion of students at the basic, proficient, and advanced levels of performance in a grade for a year with the proportion of students at each of the 3 levels in the same grade in the previous year.

''(C)(i) Adequate yearly progress for a local educational agency shall be based upon both—

''(I) the number or percentage of schools identified for school improvement or corrective action; and

''(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

''(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

''(D)(i) Adequate yearly progress for a State shall be based upon both—

''(I) the number or percentage of local educational agencies identified for improvement or corrective action; and

''(II) the progress of the State in reducing the number or length of time local educational agencies are identified for improvement or corrective action.

''(ii) The State plan shall provide that the State shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are greater than the State average of such concentrations shall not be less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''developed or adopted'' and inserting ''in place''; and

(ii) by inserting '', not later than the school year 2000–2001,'' after ''will be used'';

(B) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J);

(C) in subparagraph (F)—

(i) in clause (ii), by striking ''and'' after the semicolon; and

(ii) by adding at the end the following:

''(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

''(v) notwithstanding clauses (iii) and (iv), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability;'';

(D) by inserting after subparagraph (F) the following:

''(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student.''; and

(E) by amending subparagraph (I) (as so redesignated) to read as follows:

''(I) provide individual student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning such as measures of student coursework over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and'';

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

(6) by inserting after paragraph (3) the following:

''(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers and percentages of all students, including the lowest performing students, economically disadvantaged students, and students with limited proficiency in English, who meet the State's proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

''(i) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

''(ii) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

''(iii) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).

''(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that

school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

''(i) complies with sections 1116 and 1117, including the provision of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

''(ii) includes rigorous criteria for identifying those agencies and schools based upon failure to make adequate yearly progress in student achievement in accordance with paragraph (2).

''(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—

''(A) in developing the State plan provisions relating to adequate yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

''(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, and is provided in a widely read or distributed medium.

''(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State's consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement and corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

''(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance standards and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

''(B)(i) The State plan shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

''(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than ⅕ of the funds made available under this part for administrative expenses for the fiscal year.

''(C) The State plan shall provide that, if the State has not developed challenging State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments.''; and

(7) by adding at the end the following:

''(12) SCHOOL REPORTS.—The State plan shall provide that individual school reports publicized and disseminated under section 1116(a)(2) shall include information on the total number of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with paragraph (3)(J), and shall include information on why such students were excluded from the assessment. In issuing this report, a local educational agency may not provide any information that would violate the privacy or reveal the identity of any individual student.''.

(b) ASSURANCES.—Section 1112(c)(1) (20 U.S.C. 6312(c)(1)) is amended—

(1) in subparagraph (G), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (H), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(I) ensure, through incentives for voluntary transfers, the provision of professional development, and recruitment programs, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers.''.

(c) ASSESSMENT AND IMPROVEMENT.—Section 1116 (20 U.S.C. 6317) is amended—

(1) by amending subsection (a) to read as follows:

''(a) STATE AND LOCAL REVIEW.—

''(1) IN GENERAL.—Each local educational agency receiving funds under this part shall use the State assessments and other academic indicators described in the State plan or in a State-approved local educational agency plan to review annually the progress of each school served under this part by the agency to determine whether the school is making the adequate yearly progress specified in section 1111(b)(2) toward enabling all students to meet the State's student performance standards described in the State plan.

''(2) PUBLICATION AND DISSEMINATION; RESULTS.—Each local educational agency receiving funds under this part shall—

''(A) publicize and disseminate in individual school reports that include statistically sound results disaggregated in the same manner as results are disaggregated under section 1111(b)(3)(J), to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (1) and (if not already included in the review), graduation rates, attendance rates, retention rates, and rates of participation in advanced level courses, for all schools served under this part; and

''(B) provide the results of the annual review to schools served by the agency under this part so that the schools can continually refine their programs of instruction to help all students served under this part in those schools to meet the State's student performance standards.'';

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

''(i) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111, except that in the case of a school participating in a targeted assistance program under section 1115, a local educational agency may review the progress of only those students in such school who are served under this part; or

''(ii) was identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

''(B) The 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which a school did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.'';

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

''(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

''(I) the reasons for such identification; and

''(II) information about opportunities for parents to participate in the school improvement process.

''(ii) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

''(B)(i) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the school that the agency proposes to identify the school for school improvement and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding identification is based.

''(ii) If the school believes that the proposed identification is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

''(iii) The review period under this subparagraph shall not exceed 30 days. At the end of the period, the agency shall make public a final determination regarding indentification of the school.

''(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

''(i) addresses the fundamental teaching and learning needs in the school;

''(ii) describes the specific achievement problems to be solved;

''(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards;

''(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

''(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

''(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school under this part on professional development that—

''(I) does not supplant professional development services that the instructional staff would otherwise receive; and

''(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels of performance;

''(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

''(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school's obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

''(D)(i) The school shall submit the plan (including a revised plan) to the local educational agency for approval.

''(ii) The local educational agency shall promptly subject the plan to a peer review process, work with the school to revise the plan as necessary, and approve the plan.

''(iii) The school shall implement the plan as soon as the plan is approved.'';

(C) by amending paragraph (4) to read as follows:

''(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school's plan.

''(B) Such technical assistance—

''(i) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

''(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in section 1118, implementing the professional development provisions in section 1119, and carrying out the responsibilities of the school and local educational agency under the plan; and

''(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency's approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 207 of the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

''(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.'';

(D) by amending paragraph (5) to read as follows:

''(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

''(A) In this paragraph, the term 'corrective action' means action, consistent with State and local law, that—

''(i) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

''(ii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

''(B) After providing technical assistance under paragraph (4), the local educational agency—

''(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A);

''(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school's identification under paragraph (1)(A), at the end of the second year; and

''(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

''(C) In the case of a school described in subparagraph (B)(ii), the local educational agency—

''(i) shall take corrective action that changes the school's administration or governance by—

''(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

''(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as the creation of a public charter school);

''(III) redesigning the school by reconstituting all or part of the school staff;

''(IV) eliminating the use of noncredentialed teachers; or

''(V) closing the school;

''(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving student educational achievement and is directly related to the content area in which each teacher is providing instruction and the State's content and performance standards in that content area; and

''(iii) may defer, reduce, or withhold funds provided to carry out this title.

''(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

''(I) Such transfer must be consistent with State or local law.

''(II) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

''(III) The local educational agency may use not more than 10 percent of the funds the local educational agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

''(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

''(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

''(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

''(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding corrective action is based.

''(ii) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

''(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action for the school.'';

(E) by amending paragraph (6) to read as follows:

''(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section.''; and

(F) by amending paragraph (7) to read as follows:

''(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school's improvement plan.''; and

(3) by amending subsection (d) to read as follows:

''(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

''(1) IN GENERAL.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

''(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

''(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

''(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

''(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.

''(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served under this part.

''(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

''(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

''(C) The review period under this paragraph shall not exceed 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

''(6) NOTIFICATION TO PARENTS.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

(i) the reasons for the agency's identification; and

(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

''(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

''(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

''(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students within the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

''(C) The plan shall—

''(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including stating a determination of why the local educational agency's prior plan, if any, failed to bring about increased achievement;

''(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

''(iii) identify specific annual academic achievement goals and objectives that will—

''(I) have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards; and

''(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(B)(iv);

''(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds received by the schools under this part on professional development that—

''(I) does not supplant professional development services that the instructional staff would otherwise receive; and

''(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

''(v) identify measures the local educational agency will undertake to make adequate yearly progress;

''(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language the parents can understand;

''(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

''(viii) include strategies to promote effective parental involvement in the schools.

''(D) The local educational agency shall submit the plan (including a revised plan) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to a peer review process, work with the local educational agency to revise the plan as necessary, and approve the plan.

''(E) The local educational agency shall implement the plan (including a revised plan) as soon as the plan is approved.

''(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

''(i) to develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

''(ii) to work with schools identified for improvement.

''(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

''(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State educational agency shall implement a system of corrective action in accordance with the following:

''(A) In this paragraph, the term 'corrective action' means action, consistent with State law, that—

''(i) substantially and directly responds to the consistent academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

''(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

''(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

''(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

''(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

''(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

''(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

''(i) Withholding funds from the local educational agency.

''(ii) Reconstituting school district personnel.

''(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

''(iv) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

''(v) Abolishing or restructuring the local educational agency.

''(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(ii), the State educational agency shall provide all students enrolled in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

''(i) The provision of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

''(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

''(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under this subparagraph.

''(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

''(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

''(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

''(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency's improvement plan.''.

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) (20 U.S.C. 6318(a)) is amended to read as follows:

''(a) SYSTEM FOR SUPPORT.—

''(1) IN GENERAL.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's content standards and student performance standards.

''(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

''(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

''(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116; and

''(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty equals or exceeds 75 percent of the total number of students enrolled in such school.

''(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall provide technical assistance and support through approaches such as—

''(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

''(B) the designation and use of 'Distinguished Educators', chosen from schools served under this part that have been especially successful in improving academic achievement;

''(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

''(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

''(4) FUNDS.—Each State educational agency—

''(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

''(B) may use State administrative funds authorized for such purpose.

''(5) ALTERNATIVES.—The State educational agency may devise additional approaches to providing the assistance described in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.''.

(e) CONFORMING AMENDMENTS.—The 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking ''paragraph (6)'' and inserting ''paragraph (10)'';

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking ''section 1116(c)(4)'' and inserting ''section 1116(c)(5)'';

(3) in section 1117(c)(2)(A) (20 U.S.C. 6318(c)(2)(A)), by striking ''section 1111(b)(2)(A)(i)'' and inserting ''section 1111(b)(2)(A)'';

(4) in section 1118(c)(4)(B) (20 U.S.C. 6319(c)(4)(B)), by striking ''school performance profiles required under section 1116(a)(3)'' and inserting ''individual school reports required under section 1116(a)(2)(A)'';

(5) in section 1118(e)(1) (20 U.S.C. 6319(e)(1)), by striking ''section 1111(b)(8)'' and inserting ''section 1111(b)(11)''; and

(6) in section 1119(h)(3) (20 U.S.C. 6320(h)(3)), by striking ''section 1116(d)(6)'' and inserting ''section 1116(d)(9)''.

SEC. 103. COMPREHENSIVE SCHOOL REFORM.

Title I (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

''PART F—COMPREHENSIVE SCHOOL REFORM

''SEC. 1551. PURPOSE.

''The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

''SEC. 1552. PROGRAM AUTHORIZATION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

''(2) ALLOTMENTS.—

''(A) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

''(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

''(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

''(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

''(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallot such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

''SEC. 1553. STATE APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each such application shall describe—

''(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

''(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

''(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

''(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

''(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

''SEC. 1554. STATE USE OF FUNDS.

''(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

''(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency shall be—

''(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

''(2) in an amount not less than $50,000 for each participating school; and

''(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

''(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

''(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

''(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

''(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants

to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

''(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

''(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

''(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

''SEC. 1555. LOCAL APPLICATIONS.

''(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(b) CONTENTS.—Each such application shall—

''(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

''(2) describe the promising and effective practices and research-based programs that such schools will implement;

''(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

''(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

''SEC. 1556. LOCAL USE OF FUNDS.

''(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

''(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

''(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

''(3) providing high quality and continuous teacher and staff professional development;

''(4) including measurable goals for student performance;

''(5) providing support to teachers, principals, administrators, and other school personnel staff;

''(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

''(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

''(8) evaluating school reform implementation and student performance; and

''(9) identifying other resources, including Federal, State, local, and private resources, that will be used to coordinate services supporting and sustaining the school reform effort.

''(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

''SEC. 1557. NATIONAL EVALUATION AND REPORTS.

''(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

''(b) EVALUATION.—The national evaluation shall—

''(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

''(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

''(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations, of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

''SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

Subtitle B—Teachers

SEC. 121. STATE APPLICATIONS.

(a) CONTENTS OF STATE PLAN.—Section 2205(b)(2) (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

''(N) set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;'';

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

''(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than December 1, 2005; and''.

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II (20 U.S.C. 6641 et seq.) is amended—

(1) by redesignating section 2211 as section 2215;

(2) by inserting after section 2210 the following:

''SEC. 2211. LOCAL CONTINUATION OF FUNDING.

''(a) AGENCIES.—If a local educational agency applies for funds from a State under this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the agency has demonstrated that, in carrying out activities under this part during the past fiscal year, the agency has annual numerical performance objectives consisting of—

''(1) improved student performance for all groups identified in section 1111;

''(2) an increased percentage of teachers participating in sustained professional development activities;

''(3) a reduction in the beginning teacher attrition rate for the agency; and

''(4) a reduction in the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers, for the agency.

''(b) SCHOOLS.—If a local educational agency applies for funds under this part on behalf of a school for a fourth or subsequent fiscal year (including applying for funds as part of a partnership), the agency may not receive the funds for the school for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

''SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

''(a) PARENTS' RIGHT TO KNOW INFORMATION.—

''(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending any school served by the agency, information regarding the professional qualifications of each of the student's classroom teachers.

''(2) CONTENTS.—The agency shall provide, at a minimum, information on—

''(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

''(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

''(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.

''(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

''SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

''Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States' compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

''SEC. 2214. DEFINITION OF FULLY QUALIFIED.

''(a) IN GENERAL.—In this part, the term 'fully qualified', used with respect to a teacher, means a teacher who—

''(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

''(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

''(2) meets the standards set by the National Board for Professional Teaching Standards.

''(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

''(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

''(2) hold a bachelor's degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

''(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

''(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

''(2) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

''(A) achievement of a high level of performance on rigorous academic subject area tests;

''(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

''(C) in the case of teachers hired before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches.''; and

(3) by amending section 2215 (as so redesignated)—

(A) in subsection (a)(3), by adding after ''agency'' the following: ''for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act''; and

(B) by inserting after subsection (a)(4) the following:

''(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.''.

(c) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2203(2) (20 U.S.C. 6643(2)), by striking ''section 2211'' and inserting ''section 2215''; and

(2) in section 2205(c)(2) (20 U.S.C. 6645(c)(2)), by striking ''section 2211'' and inserting ''section 2215''.

Subtitle C—Innovative Education

SEC. 131. REQUIREMENTS FOR STATE PLANS.

Part B of title VI (20 U.S.C. 7331 et seq.) is amended by adding at the end the following:

''SEC. 6203. REQUIREMENTS FOR STATE PLANS.

''(a) STATE PLANS.—In addition to requirements relating to State applications under this part, the State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State application described in section 6202.

''(c) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the funds made available through the grant will be used to increase student academic performance;

''(2) describe annual, quantifiable, and measurable performance goals that will be used to measure the impact of those funds on student performance;

''(3) describe the methods the State will use to measure the annual impact of programs described in the plan and the extent to which such goals are aligned with State standards;

''(4) certify that the State has in place the standards and assessments required under section 1111;

''(5) certify that the State educational agency has a system, as required under section 1111, for—

''(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

''(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

''(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

''(D) providing technical assistance, professional development, and other capacity building as needed to get such agencies and schools out of improvement status;

''(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators available, to review annually the progress of each local educational agency and school served under this title to determine whether each such agency and school is making adequate yearly progress as required under section 1111(b)(2);

''(7) certify that the State educational agency will take action against a local educational agency that is identified for corrective action and receiving funds under this title;

''(8) describe what, if any, State and other non-Federal resources will be provided to local educational agencies and schools served under this title to carry out activities consistent with this title; and

''(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

''(d) APPROVAL.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

''(e) DURATION OF THE PLAN.—Each State plan shall remain in effect for the duration of the State's participation under this title.

''(f) REQUIREMENT.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

''(g) PUBLIC REVIEW.—Each State educational agency will make publicly available the plan approved under subsection (d).

''SEC. 6204. SANCTIONS.

''(a) THIRD FISCAL YEAR.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

''(b) FOURTH FISCAL YEAR.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

''(d) LOCAL SANCTIONS.—

''(1) IN GENERAL.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

''(2) SANCTIONS.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

''SEC. 6205. STATE REPORTS.

''Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

''(1) the use of such funds;

''(2) the impact of programs conducted with such funds and an assessment of such programs' effectiveness; and

''(3) the progress of the State toward attaining the performance goals established under section 6203(c)(2), and the extent to which the programs have increased student achievement.

''SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.

''Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6201(a)(1)(C), to—

''(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

''(2) provide for the establishment of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

''(3) develop and implement value-added assessments.''.

SEC. 132. PERFORMANCE OBJECTIVES.

Title VII (20 U.S.C. 7401 et seq.) is amended by inserting after section 7105 the following:

''SEC. 7106. PERFORMANCE OBJECTIVES.

''(a) IN GENERAL.—Each State educational agency or local educational agency receiving a grant under this part shall develop annual numerical performance objectives that are age-appropriate and developmentally-appropriate with respect to helping limited English proficient students become proficient in English and improve overall academic performance based upon State and local content and performance standards. The objectives shall include incremental percentage increases for each fiscal year a State educational agency or local educational agency receives a grant under this title, including increases from the preceding fiscal year in the number of limited English proficient students demonstrating an increase in performance on annual assessments concerning reading, writing, speaking, and listening comprehension.

''(b) ACCOUNTABILITY.—Each State educational agency or local educational agency receiving a grant under this title shall be held accountable for meeting the annual numerical performance objectives under this

title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 14515.

''(c) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program under this title, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

''(A) the student's level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

''(B) what programs are available to meet the student's educational strengths and needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such available programs meet the objectives of the individualized education program of such a student; and

''(C) the instructional goals of the language instruction educational program, and how the program will specifically help the limited English proficient student learn English and meet State and local content and performance standards, including—

''(i) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

''(ii) the reasons the student was identified as being in need of a language instruction educational program.

''(2) OPTION TO DECLINE.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of a student in a language instruction educational program, and shall be given an opportunity to decline such enrollment if the parent so chooses.

''(3) SPECIAL RULE.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.''.

SEC. 133. REPORT CARDS.

Title XIV (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

''PART I—REPORT CARDS

''SEC. 14901. REPORT CARDS.

''(a) GRANTS AUTHORIZED.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State report card meeting the requirements described in subsection (e), to enable the State, and local educational agencies and schools in the State, annually to publish report cards for each elementary school and secondary school that receives funding under this Act and is served by the State.

''(b) RESERVATIONS AND ALLOTMENTS.—

''(1) RESERVATIONS.—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall reserve—

''(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

''(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

''(2) STATE ALLOTMENTS.—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

''(c) STATE RESERVATION OF FUNDS.—Each State educational agency receiving a grant under subsection (a) may reserve—

''(1) not more than 10 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

''(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

''(d) WITHIN-STATE ALLOCATIONS.—Each State educational agency receiving a grant under subsection (a) shall allocate the grant funds that remain after making the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by local educational agencies within the State.

''(e) ANNUAL STATE REPORT CARD.—

''(1) REPORT CARDS REQUIRED.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for parents, the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

''(2) REQUIRED INFORMATION.—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information regarding—

''(A) student performance on statewide assessments for the year for which the annual State report card is prepared and the preceding year, in at least English language arts and mathematics, including—

''(i) a comparison of the proportions of students who performed at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions in each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

''(ii) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I; and

''(iii) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

''(B) student retention rates in each grade, the number of students completing advanced placement courses, annual school dropout rates as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data, and 4-year graduation rates; and

''(C) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional credentials, the percentage of class sections not taught by fully qualified teachers, and the percentage of teachers who are fully qualified.

''(3) STUDENT DATA.—Student data in each report card shall contain disaggregated results for the following categories:

''(A) Racial and ethnic groups.

''(B) Gender groups.

''(C) Economically disadvantaged students, as compared with students who are not economically disadvantaged.

''(D) Students with limited English proficiency, as compared with students who are proficient in English.

''(E) Migrant status groups.

''(F) Students with disabilities, as compared with students who are not disabled.

''(4) OPTIONAL INFORMATION.—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

''(A) Average class size.

''(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

''(C) The incidence of student suspensions and expulsions.

''(D) Student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

''(E) Parental involvement, as determined by such measures as the extent of parental participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

''(f) LOCAL EDUCATIONAL AGENCY AND SCHOOL REPORT CARDS.—

''(1) IN GENERAL.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

''(2) REQUIRED INFORMATION.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

''(A) the information described in paragraphs (2) and (3) of subsection (e) for each local educational agency and school;

''(B) in the case of a local educational agency—

''(i) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

''(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

''(iii) information on how students in the schools served by the local educational agency performed on the statewide assessment compared with students in the State as a whole;

''(C) in the case of an elementary school or a secondary school—

''(i) information regarding whether the school has been identified for school improvement;

''(ii) information on how the school's students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

''(iii) information about the enrollment of students compared with the rated capacity of the schools; and

''(D) other appropriate information, regardless of whether the information is included in the annual State report.

''(g) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS.—

''(1) REPORT CARD FORMAT.—Annual report cards under this part shall be—

''(A) concise; and

''(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

''(2) STATE REPORT CARDS.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(3) LOCAL REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(4) SCHOOL REPORT CARDS.—Elementary school and secondary school report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(h) COORDINATION OF STATE PLAN CONTENT.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

''(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

''SEC. 14911. REWARDING HIGH PERFORMANCE.

''(a) STATE REWARDS.—

''(1) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

''(A) for 3 consecutive years have—

''(i) exceeded the State performance goals and objectives established for any title under this Act;

''(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

''(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

''(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

''(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

''(B) by not later than fiscal year 2005, ensure that all teachers teaching in the State public elementary schools and secondary schools are fully qualified.

''(2) STATE USE OF FUNDS.—

''(A) DEMONSTRATION SITES.—Each State receiving an award under paragraph (1) shall use a portion of the award funds that are not distributed under subsection (b) to establish demonstration sites with respect to high-performing schools (based upon achievement, or performance levels and adequate yearly progress) in order to help low-performing schools.

''(B) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall use the portion of the award funds that are not used pursuant to subparagraph (A) or (C) and are not distributed under subsection (b) for the purpose of improving the level of performance of all elementary school and secondary school students in the State, based upon State content and performance standards.

''(C) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each State receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to local educational agencies.

''(b) LOCAL EDUCATIONAL AGENCY AWARDS.—

''(1) IN GENERAL.—Each State receiving an award under subsection (a)(1) shall distribute 80 percent of the award funds to local educational agencies in the State that—

''(A) for 3 consecutive years have—

''(i) exceeded the State-established local educational agency performance goals and objectives established for any title under this Act;

''(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

''(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

''(iv) raised all students enrolled in schools served by the local educational agency to the proficient standard level prior to 10 years from the date of enactment of the School Improvement Accountability Act; or

''(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I;

''(B) not later than December 31, 2005, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

''(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

''(2) SCHOOL-BASED PERFORMANCE AWARDS.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

''(3) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to eligible elementary schools and secondary schools, teachers, and principals.

''(c) SCHOOL REWARDS.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

''(1) to reward individual schools that demonstrate high performance with respect to—

''(A) increasing the academic achievement of all students;

''(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

''(C) improving teacher quality;

''(D) increasing high-quality professional development for teachers, principals, and administrators; or

''(E) improving the English proficiency of limited English proficient students;

''(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

''(A) significantly increase the annual performance of low-performing students; or

''(B) significantly improve in a fiscal year the English proficiency of limited English proficient students;

''(3) to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels;

''(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

''(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(e) DEFINITION.—The term 'low-performing student' means a student who is below a basic State standard level.''.

SEC. 134. ADDITIONAL ACCOUNTABILITY PROVISIONS.

Part E of title XIV (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

''SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which each such program will increase student academic achievement;

(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the program's performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

''(2) in the reports required under such part or title, a report for the preceding fiscal year regarding how the plan or application submitted for such fiscal year under such part or title was implemented, the recipient's progress toward attaining the performance goals and objectives identified in the plan or application for such year, and, if applicable, the extent to which programs funded in whole or in part with funds provided under such part or title increased student achievement.

''(b) PENALTIES.—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

''(1) withhold not less than 50 percent of the funds made available under the relevant

program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

''(2) in the case of—

''(A) a competitive grant (as determined by the Secretary), consider the recipient ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

''(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

''(c) OTHER PENALTIES.—A State that has not met the requirements of subsection (a)(1)(B) with respect to a fiscal year—

''(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

''(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

''(d) SPECIAL RULE FOR SECRETARY AWARDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary, or a contract or cooperative agreement entered into with the Secretary, for a program shall include the following information in any application or plan required for such program:

''(A) How funds provided under the program will be used and how such use will increase student academic achievement.

''(B) The goals and objectives to be met, including goals for dissemination and use of the information or materials produced, where applicable.

''(C) If the grant requires dissemination of information or materials, how the recipient will track and report annually to the Secretary—

''(i) the successful dissemination of information or materials produced;

''(ii) where information or materials produced are being used; and

''(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

''(2) REQUIREMENT.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

''(3) FAILURE TO ACHIEVE GOALS AND OBJECTIVES.—

''(A) IN GENERAL.—The Secretary shall evaluate the information submitted under this subsection to determine whether the recipient has met the goals and objectives described in paragraph (1)(B), where applicable, assess the magnitude of dissemination described in paragraph (1)(C), and, where applicable, assess the effectiveness of the activity funded in raising student academic achievement in places where information or materials produced with such funds are used.

''(B) INELIGIBILITY.—The Secretary shall consider the recipient ineligible for grants, contracts, or cooperative agreements under the program described in paragraph (1) if—

''(i) the goals and objectives described in paragraph (1)(B) have not been met;

''(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

''(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.''.

TITLE II—CLOSING THE ACHIEVEMENT GAP

Subtitle A—Reauthorization of Programs

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1002(a) (20 U.S.C. 6302(a)) is amended by striking ''appropriated $7,400,000,000 for fiscal year 1995'' and all that follows through the period and inserting the following: ''appropriated—

''(1) $11,000,000,000 for fiscal year 2002;

''(2) $13,000,000,000 for fiscal year 2003;

''(3) $15,000,000,000 for fiscal year 2004;

''(4) $15,000,000,000 for fiscal year 2005; and

''(5) $15,000,000,000 for fiscal year 2006.''.

(b) REVIEW OF ALLOCATIONS.—The Secretary of Education shall annually review the manner in which funds are allocated under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) to ensure that local education agencies with the highest need are receiving funds in proportion to that need as compared to other local education agencies.

Subtitle B—Options: Opportunities to Improve our Nation's Schools

SEC. 211. OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS.

Title V (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

''PART D—OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS

''SEC. 5401. PURPOSE.

''It is the purpose of this part to identify and support innovative approaches to high-quality public school choice by providing financial assistance for the demonstration, development, implementation, and evaluation of, and the dissemination of information about, public school choice programs that stimulate educational innovation for all public schools and contribute to standards-based school reform efforts.

''SEC. 5402. GRANTS.

''(a) IN GENERAL.—From funds appropriated under section 5405(a) and not reserved under section 5405(b), the Secretary is authorized to make grants to State and local educational agencies to support programs that promote innovative approaches to high-quality public school choice.

''(b) DURATION.—A grant under this part shall not be awarded for a period that exceeds 3 years.

''SEC. 5403. USES OF FUNDS.

''(a) USES OF FUNDS.—

''(1) IN GENERAL.—Funds under this part may be used to demonstrate, develop, implement, and evaluate, and to disseminate information about, innovative approaches to broaden public elementary school and secondary school choice, including the design and development of new public school choice options, the development of new strategies for overcoming barriers to effective public school choice, and the design and development of public school choice systems that promote high standards for all students and the continuous improvement of all such public schools.

''(2) EXAMPLES.—The approaches described in paragraph (1) at the school, school district, and State levels may include—

''(A) inter school district approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools;

''(B) public elementary and secondary programs that involve partnerships with institutions of higher education and that are located on the campuses of the institutions;

''(C) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary academic credit;

''(D) worksite satellite schools, in which State or local educational agencies form partnerships with public or private employers, to create public schools at parents' places of employment; and

''(E) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

''(b) LIMITATIONS.—Funds under this part—

''(1) shall supplement, and not supplant, non-Federal funds expended for existing programs;

''(2) may be used for providing transportation services or costs, except that not more than 10 percent of the funds received under this part may be used by the local educational agency to provide such services or costs;

''(3) may be used for improving low performing schools that lose students as a result of school choice plans, except that not more than 10 percent of the funds under this part may be used by the local educational agency for the improvement of low performing schools; and

''(4) shall not be used to fund programs that are authorized under part C, D, or E.

''SEC. 5404. GRANT APPLICATION; PRIORITIES.

''(a) APPLICATION REQUIRED.—A State or local educational agency desiring to receive a grant under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

''(b) APPLICATION CONTENTS.—Each application shall include—

''(1) a description of the program for which funds are sought and the goals for such program;

''(2) a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-Federal programs;

''(3) if the program includes partners, the name of each partner and a description of the partner's responsibilities; and

''(4) a description of the policies and procedures the agency will use to ensure—

''(A) that priority is provided to parents of students attending schools identified for school improvement under section 1116 in exercising choice among schools;

''(B) that priority is provided to parents of students who want to stay enrolled at a school;

''(C) the agency's accountability for results, including the agency's goals and performance indicators;

''(D) that the program is open and accessible to, and will promote high academic standards for, all students regardless of the achievement level or disability of the students and the family income of the families of the students;

''(E) that all parents are provided with easily comprehensible information about various school options, including information on instructional approaches at different schools, resources, and transportation that will be provided at or for the schools on an annual basis;

''(F) that all parents are given timely notice about opportunities to choose which school their child will attend the following year and the period during which the choice may be made;

''(G) that limitations on transfers between schools only occur because of facilities constraints, statutory class size limits, and local efforts to ensure that schools reflect the diversity of the communities in which the schools are located;

''(H) that a lottery or other random system be established for parents of students wishing to attend a school that cannot receive all students wishing to attend; and

''(I) that the program is carried out in a manner consistent with Federal law, including court orders, such as desegregation orders, issued to enforce Federal law.

''(c) PRIORITIES.—

''(1) IN GENERAL.—The Secretary shall give a priority to applications for programs that will serve high-poverty local educational agencies.

''(2) PERMISSIVE.—The Secretary may give a priority to applications demonstrating that the State or local educational agency will carry out the agency's program in partnership with one or more public or private agencies, organizations, or institutions, including institutions of higher education and public or private employers.

''SEC. 5405. AUTHORIZATION OF APPROPRIATIONS; RESERVATION; EVALUATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for each of fiscal years 2002 through 2006.

''(b) RESERVATION FOR EVALUATION, TECHNICAL ASSISTANCE, AND DISSEMINATION.—From the amount appropriated under subsection (a) for any fiscal year, the Secretary may reserve not more than 5 percent to carry out evaluations under subsection (c), to provide technical assistance, and to disseminate information.

''(c) EVALUATIONS.—The Secretary may use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part, which, at a minimum, shall address—

''(1) how, and the extent to which, the programs supported with funds under this part promote educational equity and excellence; and

''(2) the extent to which public schools of choice supported with funds under this part are—

''(A) held accountable to the public;

''(B) effective in improving public education; and

''(C) open and accessible to all students.''.

Subtitle C—Parental Involvement

SEC. 221. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

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

''(d) PARENTAL INVOLVEMENT.—Each State plan shall demonstrate that the State will support, in collaboration with the regional educational laboratories, the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

''(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

''(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.''.

SEC. 222. PARENTAL ASSISTANCE.

Part D of title I (20 U.S.C. 6421 et seq.) is amended to read as follows:

''PART D—PARENTAL ASSISTANCE AND CHILD OPPORTUNITY

''Subpart I—Parental Assistance''.

''SEC. 1401. PARENTAL INFORMATION AND RESOURCE CENTERS.

''(a) PURPOSE.—The purpose of this part is—

''(1) to provide leadership, technical assistance, and financial support to nonprofit organizations and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student performance;

''(2) to strengthen partnerships among parents (including parents of preschool age children), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

''(3) to develop and strengthen the relationship between parents and the school;

''(4) to further the developmental progress primarily of children assisted under this part; and

''(5) to coordinate activities funded under this part with parental involvement initiatives funded under section 1118 and other provisions of this Act.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish school-linked or school-based parental information and resource centers that provide training, information, and support to—

''(A) parents of children enrolled in elementary schools and secondary schools;

''(B) individuals who work with the parents described in subparagraph (A); and

''(C) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations), and other organizations that carry out parent education and family involvement programs.

''(2) AWARD RULE.—In awarding grants under this part, the Secretary shall ensure that such grants are distributed in all geographic regions of the United States.

''SEC. 1402. APPLICATIONS.

''(a) GRANTS APPLICATIONS.—

''(1) IN GENERAL.—Each nonprofit organization or nonprofit organization in consortium with a local educational agency that desires a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

''(2) CONTENTS.—Each application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

''(A)(i) be governed by a board of directors the membership of which includes parents; or

''(ii) be an organization or consortium that represents the interests of parents;

''(B) establish a special advisory committee the membership of which includes—

''(i) parents described in section 1401(b)(1)(A);

''(ii) representatives of education professionals with expertise in improving services for disadvantaged children; and

''(iii) representatives of local elementary schools and secondary schools who may include students and representatives from local youth organizations;

''(C) use at least ½ of the funds provided under this part in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

''(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

''(E) serve both urban and rural areas;

''(F) design a center that meets the unique training, information, and support needs of parents described in section 1401(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

''(G) demonstrate the capacity and expertise to conduct the effective training, information and support activities for which assistance is sought;

''(H) network with—

''(i) local educational agencies and schools;

''(ii) parents of children enrolled in elementary schools and secondary schools;

''(iii) parent training and information centers assisted under section 682 of the Individuals with Disabilities Education Act;

''(iv) clearinghouses; and

''(v) other organizations and agencies;

''(I) focus on serving parents described in section 1401(b)(1)(A) who are parents of low-income, minority, and limited English proficient, children;

''(J) use part of the funds received under this part to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters programs;

''(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance; and

''(L) work with State and local educational agencies to determine parental needs and delivery of services.

''(b) GRANT RENEWAL.—For each fiscal year after the first fiscal year an organization or consortium receives assistance under this part, the organization or consortium shall demonstrate in the application submitted for such fiscal year after the first fiscal year that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

''SEC. 1403. USES OF FUNDS.

''(a) IN GENERAL.—Grant funds received under this part shall be used—

''(1) to assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

''(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational performance in comparison to State and local standards;

''(B) to provide followup support for their children's educational achievement;

''(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

''(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

''(E) to participate in the design and provision of assistance to students who are not making adequate educational progress;

''(F) to participate in State and local decisionmaking; and

''(G) to train other parents;

''(2) to obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents;

''(3) to help the parents learn and use the technology applied in their children's education;

''(4) to plan, implement, and fund activities for parents that coordinate the education of their children with other Federal programs that serve their children or their families; and

''(5) to provide support for State or local educational personnel if the participation of such personnel will further the activities assisted under the grant.

''(b) PERMISSIVE ACTIVITIES.—Grant funds received under this part may be used to assist schools with activities such as—

''(1) developing and implementing their plans or activities under sections 1118 and 1119; and

''(2) developing and implementing school improvement plans, including addressing problems that develop in the implementation of sections 1118 and 1119.

''(3) providing information about assessment and individual results to parents in a manner and a language the family can understand;

''(4) coordinating the efforts of Federal, State, and local parent education and family involvement initiatives; and

''(5) providing training, information, and support to—

''(A) State educational agencies;

''(B) local educational agencies and schools, especially those local educational agencies and schools that are low performing; and

''(C) organizations that support family-school partnerships.

''(c) GRANDFATHER CLAUSE.—The Secretary shall use funds made available under this part to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the Educational Excellence for All Learners Act of 2001) for the duration of the grant or contract award.

''SEC. 1403A. LOCAL FAMILY INFORMATION CENTERS.

''(a) CENTERS AUTHORIZED.—The Secretary shall award grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in schools assisted under part A have the training, information, and support the parents need to enable the parents to participate effectively in helping their children to meet challenging State standards.

''(b) DEFINITION OF LOCAL NONPROFIT PARENT ORGANIZATION.—In this section, the term 'local nonprofit parent organization' means a private nonprofit organization (other than an institution of higher education) that—

''(1) has a demonstrated record of working with low-income individuals and parents;

''(2)(A) has a board of directors the majority of whom are parents of students in schools that are assisted under part A and located in the geographic area to be served by the center; or

''(B) has a special governing committee to direct and implement the center, a majority of the members of whom are parents of students in schools assisted under part A; and

''(3) is located in a community with schools that receive funds under part A, and is accessible to the families of students in those schools.

''(c) REQUIRED CENTER ACTIVITIES.—Each center assisted under this section shall be exempt from the uses of funds requirements under section 1403 and shall instead—

''(1) provide training, information, and support that meets the needs of parents of children in schools assisted under part A who are served through the grant, contract, or cooperative agreement, particularly underserved parents, low-income parents, parents of students with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action under section 1116(c);

''(2) help families of students enrolled in a school assisted under part A to understand and participate in all of the provisions of this Act designed to improve the achievement of students in the school;

''(3) provide information in a language and form that parents understand, including taking steps to ensure that underserved parents, low-income parents, parents with limited English proficiency, parents of students with disabilities, or parents of students in schools identified for school improvement or corrective action, are effectively informed and assisted;

''(4) assist parents to—

''(A) understand what their child's school is doing to enable students at the school to meet the State and local standards, including understanding the curriculum and instructional methods the school is using to help the students meet the standards;

''(B) better understand their child's educational needs, where their child stands with respect to State standards, how the school is addressing the child's education needs, and how they can work with their child to increase the child's academic achievement;

''(C) participate in the decisionmaking processes at the school, school district, and State levels;

''(D) understand and benefit from the provisions of other Federal education programs; and

''(E) understand public school choice options available in the local community, including magnet schools, charter schools, and alternative schools;

''(5) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support; and

''(6) report annually to the Secretary regarding measures, determined by the Secretary, that indicate the program's effectiveness in reaching underserved parents and developing meaningful parent involvement in schools assisted under part A.

''(c) APPLICATION REQUIREMENTS.—Each local nonprofit parent organization desiring assistance under this section shall submit to the Secretary an application (in place of the application required under section 1402) at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) describe how the organization will use the assistance to help families under this section;

''(2) describe what steps the organization has taken to meet with school district or school personnel in the geographic area to be served by the center in order to inform the personnel of the plan and application for the assistance; and

''(3) identify with specificity the special efforts that the organization will take—

''(A) to ensure that the needs for training, information, and support for parents of students in schools assisted under part A, particularly underserved parents, low-income parents, parents with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action, are effectively met; and

''(B) to work with community-based organizations.

''(d) DISTRIBUTION OF FUNDS.—

''(1) ALLOCATION OF FUNDS.—The Secretary shall make at least 2 awards of assistance under this section to a local nonprofit parent organization in each State, unless the Secretary does not receive at least 2 applications from such organizations in a State of sufficient quality to warrant providing the assistance in the State.

''(2) SELECTION REQUIREMENT FOR LOCAL FAMILY INFORMATION CENTERS.—

''(A) IN GENERAL.—The Secretary shall select local nonprofit parent organizations in a State to receive assistance under this section in a manner that ensures the provision of the most effective assistance to low-income parents of students in schools assisted under part A.

''(B) PRIORITY.—The Secretary shall give priority to—

''(i) non-profit parent organizations that are located in rural and urban areas in the State where the percentage of students from families at or below the poverty line is greater than the median, as determined by the State; and

''(ii) areas with high school dropout rates, high percentages of limited English proficient students, or schools identified for school improvement or corrective action under section 1116(c).

''SEC. 1404. TECHNICAL ASSISTANCE.

''The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

''SEC. 1405. REPORTS.

''(a) INFORMATION.—Each organization or consortium receiving assistance under this part shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this part, including—

''(1) the number of parents (including the number of minority and limited English proficient parents) who receive information and training;

''(2) the types and modes of training, information, and support provided under this part;

''(3) the strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this part;

''(4) the parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student achievement, student and school performance, and parental involvement in school planning, review, and improvement; and

''(5) the effectiveness of the activities that local educational agencies and schools are carrying out with regard to parental involvement and other activities assisted under this Act that lead to improved student achievement and improved student and school performance.

''(b) DISSEMINATION.—The Secretary annually shall disseminate, widely to the public and to Congress, the information that each organization or consortium submits under subsection (a) to the Secretary.

''SEC. 1406. GENERAL PROVISIONS.

''Notwithstanding any other provision of this part—

''(1) no person, including a parent who educates a child at home, a public school parent, or a private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this part; and

''(2) no program or center assisted under this part shall take any action that infringes in any manner on the right of a parent to direct the education of their children.''.

TITLE III—NATIONAL PRIORITIES WITH PROVEN EFFECTIVENESS

Subtitle A—Qualified Teacher in Every Classroom

SEC. 301. TEACHER QUALITY.

(a) IN GENERAL.—Title II (20 U.S.C. 6601 et seq.) is amended by striking the title heading and all that follows through the end of part A and inserting the following:

''TITLE II—QUALIFIED TEACHER IN EVERY CLASSROOM

''PART A—TEACHER QUALITY

''SEC. 2001. PURPOSES.

''The purposes of this part are the following:

''(1) To improve student achievement in order to help every student meet State content and student performance standards.

''(2) To—

''(A) enable States, local educational agencies, and schools to improve the quality and success of the teaching force by providing all teachers, including beginning and veteran teachers, with the support those teachers need to succeed and stay in teaching, by providing professional development and mentoring programs for teachers, by offering incentives for additional qualified individuals to go into teaching, by reducing out-of-field placement of teachers, and by reducing the number of teachers with emergency credentials; and

''(B) hold the States, agencies, and schools accountable for such improvements.

''(3) To support State and local efforts to recruit qualified teachers to address teacher shortages, particularly in communities with the greatest need.

''(4) To ensure that underqualified and inexperienced teachers do not teach higher percentages of low-income students and minority students than other students.

''SEC. 2002. DEFINITIONS.

''In this part:

''(1) BEGINNING TEACHER.—The term 'beginning teacher' means a fully qualified teacher who has taught for 3 years or less.

''(2) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means—

''(A) mathematics;

''(B) science;

''(C) reading (or language arts) and English;

''(D) social studies (consisting of history, civics, government, geography, and economics);

''(E) foreign languages; and

''(F) fine arts (consisting of music, dance, drama, and the visual arts).

''(3) COVERED RECRUITMENT.—The term 'covered recruitment' means activities described in section 2017(c).

''(4) FULLY QUALIFIED.—

''(A) IN GENERAL.—The term 'fully qualified', used with respect to a teacher, means a teacher who—

''(i)(I) is certified or licensed and has demonstrated the academic subject knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the academic subject in which the teacher teaches, according to the standards described in subparagraph (B) or (C), as appropriate; and

''(II) shall not be a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency; or

''(ii) meets the standards of the National Board for Professional Teaching Standards.

''(B) ELEMENTARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of complying with subparagraph (A)(i), each elementary school teacher (other than a middle school teacher) in the State shall, at a minimum—

''(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

''(ii) hold a bachelor's degree and demonstrate the academic subject knowledge, teaching knowledge, and teaching skills required to teach effectively in reading, writing, mathematics, social studies, science, and other academic subjects.

''(C) MIDDLE SCHOOL AND SECONDARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of complying with subparagraph (A)(i), each middle school or secondary school teacher in the State shall, at a minimum—

''(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

''(ii) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

''(I) achievement of a high level of performance on rigorous academic subject tests;

''(II) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

''(III) for a teacher hired prior to the date of enactment of the Educational Opportunities Act, completion of appropriate coursework for mastery of such academic subjects.

''(5) HIGH-POVERTY.—The term 'high-poverty', used with respect to a school, means a school that serves a high number or percentage of children from families with incomes below the poverty line, as determined by the State in which the school is located.

''(6) HIGH-POVERTY LOCAL EDUCATIONAL AGENCY.—The term 'high-poverty local educational agency' means a local educational agency for which the number of children served by the agency who are age 5 through 17, and from families with incomes below the poverty line—

''(A) is not less than 20 percent of the number of all children served by the agency; or

''(B) is more than 10,000.

''(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

''(A) has the meaning given the term in section 101(a) of the Higher Education Act of 1965; and

''(B) if such an institution prepares teachers and receives Federal funds, means such an institution that—

''(i) is in full compliance with the requirements of section 207 of the Higher Education Act of 1965; and

''(ii) does not have a teacher preparation program identified by a State as low-performing.

''(8) LOW-PERFORMING SCHOOL.—The term 'low-performing school' means—

''(A) a school identified by a local educational agency for school improvement under section 1116(c); or

''(B) a school in which the great majority of students, as determined by the State in which the school is located, fail to meet State student performance standards based on assessments the local educational agency is using under part A of title I.

''(9) MENTORING.—The term 'mentoring' means activities that—

''(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

''(i) is designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

''(ii)(I) as part of a multiyear, developmental induction process;

''(II) involves the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

''(III) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

''(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, teacher organization, or another organization, for the purpose of carrying out the activities described in subparagraph (A).

''(10) MENTOR TEACHER.—The term 'mentor teacher' means a fully qualified teacher who—

''(A) is a highly competent classroom teacher who is formally selected and trained to work effectively with beginning teachers (including corps members described in section 2018);

''(B) is full-time, and is assigned and qualified to teach in the content area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach;

''(C) has been consistently effective in helping diverse groups of students make substantial achievement gains; and

''(D) has been selected to provide mentoring through a peer review process that uses, as the primary selection criterion for the process, the teacher's ability to help students achieve academic gains.

''(11) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(12) PROFESSIONAL DEVELOPMENT.—The term 'professional development' means activities that are—

''(A)(i) an integral part of broad schoolwide and districtwide educational improvement plans and enhance the ability of teachers and other staff to help all students, including females, students with disabilities, students with limited English proficiency, and students who have economic and educational disadvantages, meet high State and local content and student performance standards;

''(ii) sustained, intensive, school-embedded, tied to State standards, and of high quality and sufficient duration to have a positive and lasting impact on classroom instruction (not one-time workshops); and

''(iii) based on the best available research on teaching and learning; and

''(B) described in subparagraphs (A) through (F) of section 2017(a)(1).

''(13) RECRUITMENT ACTIVITIES.—The term 'recruitment activities' means activities carried out through a teacher corps program as described in section 2018 to attract highly qualified individuals, including individuals taking nontraditional routes to teaching, to enter teaching and support the individuals during necessary certification and licensure activities.

''(14) RECRUITMENT PARTNERSHIP.—The term 'recruitment partnership' means a partnership described in section 2015(b)(2).

''SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part—

''(1) $2,000,000,000 for fiscal year 2001, of which—

''(A) $1,730,000,000 shall be made available to carry out subpart 1; and

''(B) $270,000,000 shall be made available to carry out subpart 2, of which—

''(i) $120,000,000 shall be made available to carry out chapter 1 of subpart 2;

''(ii) $25,000,000 shall be made available to carry out chapter 2 of subpart 2;

''(iii) $75,000,000 shall be made available to carry out chapter 3 of subpart 2; and

''(iv) $50,000,000 shall be made available to carry out chapter 4 of subpart 2; and

''(2) such sums as may be necessary for each of fiscal years 2002 through 2005.

"Subpart 1—Grants to States and Local Educational Agencies

"Chapter 1—Grants and Activities

"SEC. 2011. ALLOTMENTS TO STATES.

''(a) IN GENERAL.—The Secretary is authorized to make grants to eligible State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development, mentoring, and recruitment activities (and covered recruitment, at the election of a local educational agency) at the State and local levels. Each grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

''(1) RESERVATION OF FUNDS.—

''(A) IN GENERAL.—From the total amount made available to carry out this subpart under section 2003(1) for any fiscal year, the Secretary shall reserve—

''(i) ½ of 1 percent for allotments for the outlying areas to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, for professional development and mentoring and recruitment activities carried out in accordance with the purposes of this part; and

''(ii) ½ of 1 percent for the Secretary of the Interior for programs carried out in accordance with the purposes of this part to provide professional development and mentoring and recruitment activities for teachers and other staff in schools operated or funded by the Bureau of Indian Affairs.

''(B) LIMITATION.—Notwithstanding subparagraph (A), the Secretary shall not reserve, for either the outlying areas under subparagraph (A)(i) or the schools operated or funded by the Bureau of Indian Affairs under subparagraph (A)(ii), more than the amount reserved for those areas or schools for fiscal year 2000 under the authority described in paragraph (2)(A)(i).

''(2) STATE ALLOTMENTS.—

''(A) HOLD HARMLESS.—

''(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the amount that the State received for fiscal year 2000 under section 2202(b) of this Act (as in effect on the day before the date of enactment of the Educational Opportunities Act).

''(ii) RATABLE REDUCTION.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

''(B) ALLOTMENT OF ADDITIONAL FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 2000 under the authority described in subparagraph (A)(i), the Secretary shall allot to each of those States the sum of—

''(I) an amount that bears the same relationship to 40 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

''(II) an amount that bears the same relationship to 60 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

''(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under clause (i) for a fiscal year.

''(3) REALLOTMENT.—If any State described in paragraph (2) does not apply for an allotment under paragraph (2) for any fiscal year, the Secretary shall reallot such amount to the remaining such States in accordance with paragraph (2).

"SEC. 2012. STATE APPLICATIONS.

''(a) APPLICATIONS REQUIRED.—

''(1) IN GENERAL.—Each State desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) DEVELOPMENT.—The State educational agency shall develop the State application—

''(A) in consultation with the State agency for higher education, community-based and other nonprofit organizations, and institutions of higher education; and

''(B) with the extensive participation of teachers, teacher educators, school administrators, and content specialists.

''(b) CONTENTS.—Each such application shall include—

''(1) a description of the State's shortages of fully qualified teachers relating to high-poverty school districts and high-need academic subjects (as such districts or subjects are determined by the State);

''(2) an assessment of the need for professional development for veteran teachers in the State and the need for strong mentoring programs for beginning teachers that is—

''(A) developed with the involvement of teachers; and

''(B) based on student achievement data in the core academic subjects and other indicators of the need for professional development and mentoring programs;

''(3) a description of how the State educational agency will use funds made available under this part to improve the quality of the State's teaching force, eliminate the use of out-of-field placement of teachers, and eliminate the use of teachers hired with emergency or other provisional credentials by setting numerical, annual improvement goals, and meet the requirements of this section;

''(4) a description of how the State educational agency will align activities assisted under this subpart with State content and student performance standards, and State assessments by setting numerical, annual improvement goals;

''(5) a description of how the State educational agency will coordinate activities funded under this subpart with professional development and mentoring and recruitment activities that are supported with funds from other relevant Federal and non-Federal programs;

''(6) a plan, developed with the extensive participation of teachers, for addressing long-term teacher recruitment, retention, and professional development and mentoring needs, which may include—

''(A) providing technical assistance to help school districts reform hiring and employment practices to improve the recruitment and retention of fully qualified teachers, especially with respect to high-poverty schools; or

''(B) establishing State or regional partnerships to address teacher shortages;

''(7) a description of how the State educational agency will assist local educational agencies in implementing effective and sustained professional development and mentoring activities and high-quality recruitment activities under this part;

''(8) an assurance that the State will consistently monitor the progress of each local educational agency and school in the State in achieving the goals specified in the information submitted under paragraphs (1) through (7);

''(9) a description of how the State educational agency will work with recipients of grants awarded for recruitment activities under section 2015(b) to ensure that recruits who successfully complete a teacher corps program will be certified or licensed; and

''(10) the assurances and description referred to in section 2021.

''(c) APPROVAL.—The Secretary shall, using a peer-review process, approve a State application if the application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"SEC. 2013. STATE USE OF FUNDS.

''(a) IN GENERAL.—Of the funds allotted to a State under section 2011 for a fiscal year—

''(1) not more than 6 percent shall be used by the State educational agency to carry out State activities described in section 2014, or for the administration of this subpart (other than the administration of section 2019 but including the administration of State activities under chapter 2), except that not more than 3 percent of the allotted funds may be used for the administration of this subpart;

''(2) 60 percent shall be used by the State educational agency to provide grants to local educational agencies under section 2015(a) for professional development and mentoring (except as provided in section 2017(c));

''(3) 30 percent shall be used by the State educational agency—

''(A) except as provided in subparagraph (B), to provide grants to recruitment partnerships under section 2015(b) for recruitment activities; or

''(B) if the State educational agency determines that all elementary school and secondary school teachers in the State that are teaching core academic subjects are fully qualified, to provide the grants described in paragraph (2); and

''(4) 4 percent (or 4 percent of the amount the State would have been allotted if the appropriation for this subpart were $1,730,000,000, whichever is greater) shall be used by the State agency for higher education to provide grants to partnerships under section 2019.

''(b) PRIORITY FOR PROFESSIONAL DEVELOPMENT AND MENTORING IN MATHEMATICS AND SCIENCE.—

''(1) PRIORITY.—

''(A) APPROPRIATIONS OF NOT MORE THAN $300,000,000.—Except as provided in section 2017(c), for any fiscal year for which the appropriation for this subpart is $300,000,000 or less, each State educational agency that receives funds under this subpart, working jointly with the State agency for higher education, shall ensure that all funds received under this subpart are used for—

''(i) professional development and mentoring in mathematics and science that is aligned with State content and student performance standards; and

''(ii) recruitment activities to attract fully qualified math and science teachers to high-poverty schools.

''(B) APPROPRIATION OF MORE THAN $300,000,000.—Except as provided in section 2017(c), for any fiscal year for which the appropriation for this subpart is greater than $300,000,000, the State educational agency

and the State agency for higher education shall jointly ensure that the total amount of funds that the agencies receive under this subpart and that the agencies use for activities described in subparagraph (A) is at least as great as the allotment the State would have received if that appropriation had been $300,000,000.

''(2) INTERDISCIPLINARY ACTIVITIES.—A State may use funds received under this subpart for activities that focus on more than 1 core academic subject, and apply the funds toward meeting the requirements of paragraph (1), if the activities include a strong focus on improving instruction in mathematics or science.

''(3) ADDITIONAL FUNDS.—Except as provided in section 2017(c), each State educational agency that receives funds under this subpart and the State agency for higher education shall jointly ensure that any portion of the funds that exceeds the amount required by paragraph (1) to be spent on activities described in paragraph (1)(A) is used to provide—

''(A) professional development and mentoring in 1 or more of the core academic subjects that is aligned with State content and student performance standards; and

''(B) recruitment activities involving teachers of 1 or more of the core academic subjects.

''SEC. 2014. STATE LEVEL ACTIVITIES.

''(a) ACTIVITIES.—Each State educational agency that receives a grant described in section 2011 shall use the funds made available under section 2013(a)(1) to carry out statewide strategies and activities to improve teacher quality, including—

''(1) establishing, expanding, or improving alternative routes to State certification or licensing of teachers, for highly qualified individuals with a baccalaureate degree, mid-career professionals from other occupations, or paraprofessionals, that are at least as rigorous as the State's standards for initial certification or licensing of teachers;

''(2) developing or improving evaluation systems to evaluate the effectiveness of professional development and mentoring and recruitment activities in improving teacher quality, skills, and content knowledge, and the impact of the professional development and mentoring and recruitment activities on increasing student academic achievement and student performance with performance measures drawn from assessments that objectively measure student achievement against State performance standards;

''(3) funding projects to promote reciprocity of teacher certification or licensure between or among States;

''(4) providing assistance to local educational agencies to reduce out-of-field placements and the use of emergency credentials;

''(5) supporting certification by the National Board for Professional Teaching Standards of teachers who are teaching or will teach in high-poverty schools;

''(6) providing assistance to local educational agencies in implementing effective programs of recruitment activities, and professional development and mentoring, including supporting efforts to encourage and train teachers to become mentor teachers;

''(7) increasing the rigor and quality of State certification and licensure tests for individuals entering the field of teaching, including subject matter tests for elementary, middle and secondary school teachers; and

''(8) implementing teacher recognition programs.

''(b) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this section and the activities carried out under that section 202.

''SEC. 2015. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) GRANTS FOR PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES.—

''(1) IN GENERAL.—The State educational agency of a State that receives a grant described in section 2011 shall use the funds made available under section 2013(a)(2) (and any funds made available under section 2013(a)(3)(B)) to make grants to eligible local educational agencies, from allocations made under paragraph (2), to carry out the activities described in section 2017(a) (except as provided in section 2017(c)).

''(2) ALLOCATIONS.—The State educational agency shall allocate to each eligible local educational agency the sum of—

''(A) an amount that bears the same relationship to 20 percent of the funds described in paragraph (1) as the number of individuals enrolled in public and private nonprofit elementary schools and secondary schools in the geographic area served by the agency bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State; and

''(B) an amount that bears the same relationship to 80 percent of the funds as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

''(3) ELIGIBILITY.—To be eligible to receive a grant from a State educational agency under this subsection, a local educational agency shall serve schools that include—

''(A) high-poverty schools;

''(B) schools that need support for improving teacher quality based on low achievement of students served;

''(C) schools that have low teacher retention rates;

''(D) schools that need to improve or expand the knowledge and skills of new and veteran teachers in high-priority content areas;

''(E) schools that have high out-of-field placement rates; or

''(F) high-poverty schools that have been identified for improvement in accordance with section 1116.

''(4) EQUITABLE GEOGRAPHIC DISTRIBUTION.—A State educational agency shall ensure an equitable distribution of grants under this subsection among eligible local educational agencies serving urban and rural areas.

''(b) GRANTS FOR RECRUITMENT ACTIVITIES.—

''(1) IN GENERAL.—The State educational agency of a State that receives a grant under section 2011 shall use the funds made available under section 2013(a)(3)(A) to make grants to eligible recruitment partnerships, on a competitive basis, to carry out the recruitment activities and meet requirements described in section 2017(b).

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible to receive a grant from a State educational agency under this subsection, a recruitment partnership—

''(i) shall include an eligible local educational agency, or a consortium of eligible local educational agencies;

''(ii) shall include an institution of higher education, a tribal college, or a community college; and

''(iii) may include other members, such as a nonprofit organization or professional education organization.

''(B) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In subparagraph (A), the term 'eligible local educational agency' means a local educational agency that receives assistance under part A of title I, and meets any additional eligibility criteria that the appropriate State educational agency may establish.

''(3) EQUITABLE GEOGRAPHIC DISTRIBUTION.—A State educational agency shall ensure an equitable distribution of grants under this subsection among eligible recruitment partnerships serving urban and rural areas.

''SEC. 2016. LOCAL APPLICATIONS.

''(a) IN GENERAL.—A local educational agency or a recruitment partnership seeking to receive a grant from a State under section 2015 to carry out activities described in section 2017 shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(b) CONTENTS RELATING TO PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES.—If the local educational agency seeks a grant under section 2015(a) to carry out activities described in section 2017(a), the local application described in subsection (a) shall include, at a minimum, the following:

''(1) A description of how the local educational agency intends to use the funds provided through the grant to carry out activities that meet requirements described in section 2017(a).

''(2) An assurance that the local educational agency will target the funds to high-poverty, low-performing schools served by the local educational agency that—

''(A) have the lowest proportions of qualified teachers;

''(B) are identified for school improvement and corrective action under section 1116; or

''(C) are identified for school improvement in accordance with other measures of school quality as determined and documented by the local educational agency.

''(3) A description of how the local educational agency will coordinate professional development and mentoring activities described in section 2017(a) with professional development and mentoring activities provided through other Federal, State, and local programs, including programs authorized under—

''(A) titles I, IV, and V, and part A of title VII; and

''(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

''(4) A description of how the local educational agency will integrate funds received to carry out activities described in section 2017(a) with funds received under title V that are used for professional development and mentoring in order to carry out professional development and mentoring activities that—

''(A) train teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists, in how to use technology to improve learning and teaching; and

''(B) take into special consideration the different learning needs for, and exposures to, technology for all students, including females, students with disabilities, students with limited English proficiency, and students who have economic and educational disadvantages.

''(5) A description of how the local application was developed with extensive participation of teachers, paraprofessionals, principals, and parents.

''(6) A description of how the professional development and mentoring activities described in section 2017(a) will address the ongoing professional development and mentoring of teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists.

''(7) A description of how the professional development and mentoring activities described in section 2017(a) will have a substantial, measurable, and positive impact on student achievement and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority student from other students.

''(8) A description of how the local educational agency will address the needs of teachers of students with disabilities, students with limited English proficiency, and other students with special needs.

''(9) A description of how the local educational agency will provide training to teachers to enable the teachers to work with parents, involve parents in their child's education, and encourage parents to become collaborators with schools in promoting their child's education.

''(10) The assurances and description referred to in section 2023, with respect to professional development and mentoring activities.

''(c) DEVELOPMENT AND CONTENTS RELATING TO RECRUITMENT ACTIVITIES.—If an eligible local educational agency (as defined in section 2015(b)) seeks a grant under section 2015(b) to carry out activities described in section 2017(b)—

''(1) the eligible local educational agency shall enter into a recruitment partnership, which shall jointly prepare and submit the local application described in subsection (a); and

''(2) at a minimum, the application shall include—

''(A) a description of how the recruitment partnership will meet the teacher corps program requirements described in section 2018;

''(B) a description of the individual and collective responsibilities of members of the recruitment partnership in meeting the requirements and goals of a teacher corps program described in section 2018;

''(C) information demonstrating that the State agency responsible for teacher licensure or certification in the State in which a recruitment partnership is established will—

''(i) ensure that a corps member who successfully completes a teacher corps program will have the academic requirements necessary for initial certification or licensure as a teacher in the State; and

''(ii) work with the recruitment partnership to ensure the partnership uses high-quality methods and establishes high-quality requirements concerning alternative routes to certification or licensing, in order to meet State requirements for certification or licensure; and

''(D) the assurances and description referred to in section 2023, with respect to recruitment activities.

''(d) CONTENTS RELATING TO COVERED RECRUITMENT.—If the local educational agency seeks a grant under section 2015(a) to carry out activities described in section 2017(c), the local application described in subsection (a) shall include, at a minimum, a description of the activities and the manner in which the activities will contribute to accomplishing the objectives of section 2023, and how the activities are in compliance with the requirements of this Act.

''(e) APPROVAL.—A State educational agency shall approve a local educational agency's or recruitment partnership's application under this section only if the State educational agency determines that the application is of high quality and holds reasonable promise of achieving the purposes of this part.

''SEC. 2017. LOCAL ACTIVITIES.

''(a) PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES.—Except as provided in subsection (c), each local educational agency receiving a grant under section 2015(a) shall use the funds made available through the grant to carry out activities (and only activities) that—

''(1) are professional development activities (as defined in section 2002(12)(A)) that—

''(A) improve teacher knowledge of—

''(i) 1 or more of the core academic subjects;

''(ii) effective instructional strategies, methods, and skills for improving student achievement in core academic subjects, including strategies for identifying and eliminating gender and racial bias;

''(iii) the use of data and assessments to inform teachers about and thereby help teachers to improve classroom practice; and

''(iv) innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies that integrate academic and technical skills and applied learning (such as service learning), methodologies for interactive and interdisciplinary team teaching, and other alternative teaching strategies, such as strategies for experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

''(B) provide teachers and paraprofessionals (and other staff as appropriate) with information on recent research findings on how children learn to read and with staff development on research-based instructional strategies for the teaching of reading;

''(C) replicate effective instructional practices that involve collaborative groups of teachers and administrators from the same school or district, using strategies such as—

''(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

''(ii) provision of collaborative professional development experiences for veteran teachers based on the standards in the core academic subjects of the National Board for Professional Teaching Standards;

''(iii) consultation with exemplary teachers;

''(iv) provision of short-term and long-term visits to classrooms and schools;

''(v) participation of teams of teachers in summer institutes and summer immersion activities that are focused on preparing teachers to enable all students to meet high standards in 1 or more of the core academic subjects; and

''(vi) establishment and maintenance of local professional networks that provide a forum for interaction among teachers and administrators and that allow for the exchange of information on advances in content knowledge and teaching skills;

''(D) provide for the participation of paraprofessionals, pupil services personnel, and other school staff;

''(E) include strategies for fostering meaningful parental involvement and relations with parents to encourage parents to become collaborators in their children's education, for improving classroom management and discipline, and for integrating technology into a curriculum;

''(F) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of the evaluations used to improve the quality of activities described in this paragraph;

''(G) include, to the extent practicable, the establishment of a partnership with an institution of higher education, another local educational agency, a teacher organization, or another organization, for the purpose of carrying out activities described in this paragraph; and

''(H) include ongoing and school-based support for activities described in this paragraph, such as support for peer review, coaching, or study groups, and the provision of release time as needed for the activities;

''(2) are mentoring activities; and

''(3) include local activities carried out under chapter 2.

''(b) RECRUITMENT ACTIVITIES.—Each recruitment partnership receiving a grant under section 2015(b) shall use the funds made available through the grant to carry out recruitment activities (and only recruitment activities) described in section 2018.

''(c) COVERED RECRUITMENT.—A local educational agency receiving a grant under section 2015(a) for a fiscal year may elect to use a portion of the funds made available through the grant, but not more than the agency's share of 10 percent of the funds allotted to the State involved under section 2011 for the fiscal year, to carry out recruitment (including recruitment through the use of signing bonuses and other financial incentives) and hiring of fully qualified teachers.

''SEC. 2018. RECRUITMENT ACTIVITIES THROUGH A TEACHER CORPS PROGRAM.

''(a) TEACHER CORPS PROGRAM REQUIREMENTS.—

''(1) RECRUITMENT.—A recruitment partnership that receives a grant under section 2015(b) shall broadly recruit and screen for a teacher corps a highly qualified pool of candidates who demonstrate the potential to become effective teachers. Each candidate shall meet—

''(A) standards to ensure that—

''(i) each corps member possesses appropriate, high-level credentials and presents the likelihood of becoming an effective teacher; and

''(ii) each group of corps members includes people who have expertise in academic subjects and otherwise meet the specific needs of the district to be served; and

''(B) any additional standard that the recruitment partnership establishes to enhance the quality and diversity of candidates and to meet the academic and grade level needs of the partnership.

''(2) REQUIRED CURRICULUM AND PLACEMENT.—Members of the recruitment partnership shall work together to plan and develop a program that includes—

''(A) a rigorous curriculum that includes a preservice training program (incorporating innovative approaches to preservice training, such as distance learning), for a period not to exceed 1 year, that provides corps members with the skills and knowledge necessary to become effective teachers, by—

''(i) requiring completed course work in basic areas of teaching, such as principles of learning and child development, effective teaching strategies, assessments, and classroom management, and in the pedagogy related to the academic subjects in which a corps member intends to teach;

''(ii) providing extensive preparation in the pedagogy of reading to corps members, including preparation components that focus on—

''(I) understanding the psychology of reading, and human growth and development;

''(II) understanding the structure of the English language; and

''(III) learning and applying the best teaching methods to all aspects of reading instruction;

''(iii) providing training in the use of technology as a tool to enhance a corps member's

effectiveness as a teacher and improve the achievement of the corps member's students; and

''(iv) focusing on the teaching skills and knowledge that corps members need to enable all students to meet the State's highest challenging content and student performance standards;

''(B) placement of a corps member with the local educational agency participating in the recruitment partnership, in a teaching internship that—

''(i) includes intensive mentoring;

''(ii) provides a reduced teaching load; and

''(iii) provides regular opportunities for the corps member to co-teach with a mentor teacher, observe other teachers, and be observed and coached by other teachers;

''(C) individualized inservice training over the course of the corps member's first 2 years of full-time teaching that provides—

''(i) high-quality professional development, coordinated jointly by members of the recruitment partnership, and the course work necessary to provide additional or supplementary knowledge to meet the specific needs of the corps member; and

''(ii) ongoing mentoring by a teacher who meets the criteria for a mentor teacher described in paragraph (4)(B), including the requirements of section 2002(10); and

''(D) collaboration between the recruitment partnership, and local community student and parent groups, to assist corps members in enhancing their understanding of the community in which the members are placed.

''(3) EVALUATION.—A recruitment partnership shall evaluate a corps member's progress in course study and classroom practice at regular intervals. Each recruitment partnership shall have a formal process to identify corps members who seem unlikely to become effective teachers and terminate their participation in the program.

''(4) MENTOR TEACHERS.—

''(A) IN GENERAL.—A recruitment partnership shall develop a plan for the program, which shall include strategies for identifying, recruiting, training, and providing ongoing support to individuals who will serve as mentor teachers to corps members.

''(B) MENTOR TEACHER REQUIREMENTS.—The plan described in subparagraph (A) shall specify the criteria that the recruitment partnership will use to identify and select mentor teachers and, at a minimum, shall—

''(i) require a mentor teacher to meet the requirements of section 2002(10); and

''(ii) require that consideration be given to teachers with national board certification.

''(C) COMPENSATION.—The plan shall specify the compensation—

''(i) for mentor teachers, including monetary compensation, release time, or a reduced work load to ensure that mentor teachers can provide ongoing support for corps members; and

''(ii) for corps members, including salary levels and the stipends, if any, that will be provided during a corps member's preservice training.

''(5) ASSURANCES.—The plan shall include assurances that—

''(A) a corps member will be assigned to teach only academic subjects and grade levels for which the member is fully qualified;

''(B) corps members, to the extent practicable, will be placed in schools with teams of corps members; and

''(C) every mentor teacher will be provided sufficient time to meet the needs of the corps members assigned to the mentor teacher.

''(b) CORPS MEMBER QUALIFICATIONS.—

''(1) CANDIDATES INTENDING TO TEACH IN ELEMENTARY SCHOOLS.—At a minimum, to be accepted by a teacher corps program, a candidate who intends to teach at the elementary school level shall—

''(A) have a bachelor's degree;

''(B) possess an outstanding commitment to working with children and youth;

''(C) possess a strong professional or postsecondary record of achievement; and

''(D) pass all basic skills and subject matter tests required by the State for teacher certification or licensure.

''(2) CANDIDATES INTENDING TO TEACH IN SECONDARY SCHOOLS.—At a minimum, to be accepted by a teacher corps program, a candidate who intends to teach at the secondary school level shall—

''(A) meet the requirements described in paragraph (1); and

''(B)(i) possess at least an academic major or postsecondary degree in each academic subject in which the candidate intends to teach; or

''(ii) if the candidate did not major or earn a postsecondary degree in an academic subject in which the candidate intends to teach, have completed a rigorous course of instruction in that subject that is equivalent to having majored in the subject.

''(3) SPECIAL RULE.—Notwithstanding paragraph (2)(B), the recruitment partnership may consider the candidate to be an eligible corps member and accept the candidate for a teacher corps program if the candidate has worked successfully and directly in a field and in a position that provided the candidate with direct and substantive knowledge in the academic subject in which the candidate intends to teach.

''(c) THREE-YEAR COMMITMENT TO TEACHING IN ELIGIBLE DISTRICTS.—

''(1) IN GENERAL.—In return for acceptance to a teacher corps program, a corps member shall commit to 3 years of full-time teaching in a school or district served by a local educational agency participating in a recruitment partnership receiving funds under this subpart.

''(2) REIMBURSEMENT.—

''(A) IN GENERAL.—If a corps member leaves the school district to which the corps member has been assigned prior to the end of the 3-year period described in paragraph (1), the corps member shall be required to reimburse the Secretary for the amount of the Federal share of the cost of the corps member's participation in the teacher corps program.

''(B) PARTNERSHIP CLAIMS.—A recruitment partnership that provides a teacher corps program to a corps member who leaves the school district, as discussed in subparagraph (A), may submit a claim to the corps member requiring the corps member to reimburse the recruitment partnership for the amount of the partnership's share of the cost described in subparagraph (A).

''(C) REDUCTION.—Reimbursements required under this paragraph may be reduced proportionally based on the amount of time a corps member remained in the teacher corps program beyond the corps member's initial 2 years of service.

''(D) WAIVER.—The Secretary may waive reimbursements required under subparagraph (A) in the case of severe hardship to a corps member who leaves the school district, as described in subparagraph (A).

''(d) FEDERAL SHARE; NON-FEDERAL SHARE.—

''(1) PAYMENT OF FEDERAL SHARE.—The Secretary shall pay to each recruitment partnership carrying out a teacher corps program under this section the Federal share of the cost of the activities described in the partnership's application under section 2016(c).

''(2) NON-FEDERAL SHARE.—A recruitment partnership's share of the cost of the activities described in the partnership's application under section 2016(c)—

''(A) may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services; and

''(B)(i) for the first year for which the partnership receives assistance under this subpart, shall be not less than 10 percent;

''(ii) for the second such year, shall be not less than 20 percent;

''(iii) for the third year such year, shall be not less than 30 percent;

''(iv) for the fourth such year, shall be not less than 40 percent; and

''(v) for the fifth such year, shall be not less than 50 percent.

''SEC. 2019. GRANTS TO PARTNERSHIPS OF INSTITUTIONS OF HIGHER EDUCATION AND LOCAL EDUCATIONAL AGENCIES.

''(a) ADMINISTRATION.—A State agency for higher education may use, from the funds made available to the agency under section 2013(a)(4) for any fiscal year, not more than 3⅓ percent for the expenses of the agency in administering this section, including conducting evaluations of activities on the performance measures described in section 2014(a)(2).

''(b) GRANTS TO PARTNERSHIPS.—

''(1) IN GENERAL.—The State agency for higher education shall use the remainder of the funds, in cooperation with the State educational agency, to make grants to (including entering into contracts or cooperative agreements with) partnerships of—

''(A) institutions of higher education that are in full compliance with all reporting requirements of title II of the Higher Education Act of 1965 or nonprofit organizations of demonstrated effectiveness in providing professional development and mentoring in the core academic subjects; and

''(B) eligible local educational agencies (as defined in section 2015(b)(2)),

to carry out activities (and only activities) described in subsection (e).

''(2) SIZE; DURATION.—Each grant made under this section shall be—

''(A) in a sufficient amount to carry out the objectives of this section effectively; and

''(B) for a period of 3 years, which the State agency for higher education may extend for an additional 2 years if the agency determines that the partnership is making substantial progress toward meeting the specific goals set out in the written agreement required in subsection (c) and on the performance measures described in section 2014(a)(2).

''(3) APPLICATIONS.—To be eligible to receive a grant under this section, a partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may reasonably require.

''(4) AWARD PROCESS AND BASIS.—The State agency for higher education shall make the grants on a competitive basis, using a peer review process.

''(5) PRIORITY.—In making the grants, the State agency for higher education shall give priority to partnerships submitting applications for projects that focus on mentoring programs for beginning teachers.

''(6) CONSIDERATIONS.—In making such a grant for a partnership, the State agency for higher education shall consider—

''(A) the need of the local educational agency involved for the professional development and mentoring activities proposed in the application;

''(B) the quality of the program proposed in the application and the likelihood of success of the program in improving classroom instruction and student academic achievement; and

''(C) such other criteria as the agency finds to be appropriate.

''(c) AGREEMENTS.—

''(1) IN GENERAL.—No partnership may receive a grant under this section unless the institution of higher education or nonprofit organization involved enters into a written agreement with at least 1 eligible local educational agency (as defined in section 2015(b)(2)) to provide professional development and mentoring for elementary and secondary school teachers in the schools served by that agency in the core academic subjects.

''(2) GOALS.—Each such agreement shall identify specific measurable annual goals concerning how the professional development and mentoring that the partnership provides will enhance the ability of the teachers to prepare all students to meet challenging State and local content and student performance standards.

''(d) JOINT EFFORTS WITHIN INSTITUTIONS OF HIGHER EDUCATION.—Each professional development and mentoring activity assisted under this section by a partnership containing an institution of higher education shall involve the joint effort of the institution of higher education's school or department of education and the schools or departments of the institution in the specific disciplines in which the professional development and mentoring will be provided.

''(e) USES OF FUNDS.—A partnership that receives funds under this section shall use the funds for activities (and only for activities) that consist of—

''(1) professional development and mentoring in the core academic subjects, aligned with State or local content standards, for teams of teachers from a school or school district and, where appropriate, administrators and paraprofessionals;

''(2) research-based professional development and mentoring programs to assist beginning teachers, which may include—

''(A) mentoring and coaching by trained mentor teachers that lasts at least 2 years;

''(B) team teaching with veteran teachers who have a consistent record of helping their students make substantial academic gains;

''(C) provision of time for observation of, and consultation with, veteran teachers;

''(D) provision of reduced teaching loads; and

''(E) provision of additional time for preparation;

''(3) the provision of technical assistance to school and agency staff for planning, implementing, and evaluating professional development and mentoring;

''(4) the provision of training for teachers to help the teachers develop the skills necessary to work most effectively with parents; and

''(5) in appropriate cases, the provision of training to address areas of teacher and administrator shortages.

''(f) COORDINATION.—Any partnership that carries out professional development and mentoring activities under this section shall coordinate the activities with activities carried out under title II of the Higher Education Act of 1965, if a local educational agency or institution of higher education in the partnership is participating in programs funded under that title.

''(g) ANNUAL REPORTS.—

''(1) IN GENERAL.—Beginning with fiscal year 2002, each partnership that receives a grant under this section shall prepare and submit to the appropriate State agency for higher education, by a date set by that agency, an annual report on the progress of the partnership on the performance measures described in section 2014(a)(2).

''(2) CONTENTS.—Each such report shall—

''(A) include a copy of each written agreement required by subsection (c) that is entered into by the partnership; and

''(B) describe how the members of the partnership have collaborated to achieve the specific goals set out in the agreement, and the results of that collaboration.

''(3) COPY.—The State agency for higher education shall provide the State educational agency with a copy of each such report.

''Chapter 2—Accountability

''SEC. 2021. STATE APPLICATION ACCOUNTABILITY PROVISIONS.

''(a) ASSURANCES.—Each State application submitted under section 2012 shall contain assurances that—

''(1) beginning on the date of enactment of the Educational Opportunities Act, no school in the State that is served under this subpart will use funds received under this subpart to hire a teacher who is not a fully qualified teacher; and

''(2) not later than 4 years after the date of enactment of the Educational Opportunities Act, each teacher in the State who provides services to students served under this subpart shall be a fully qualified teacher.

''(b) WITHHOLDING.—If a State fails to meet the requirements described in subsection (a)(2) for a fiscal year in which the requirements apply—

''(1) the Secretary shall withhold, for the following fiscal year, a portion of the funds that would otherwise be available to the State under section 2013(a)(1) for the administration of this subpart; and

''(2) the State shall be subject to such other penalties as are provided by law for a violation of this Act.

''(c) ASSISTANCE BY STATE EDUCATIONAL AGENCY.—Each State application submitted under section 2012 shall describe how the State educational agency will help each local educational agency and school in the State develop the capacity to comply with the requirements of this section.

''SEC. 2022. STATE REPORTS.

''(a) REPORT TO SECRETARY.—

''(1) IN GENERAL.—Each State that receives funds under this subpart shall annually prepare and submit to the Secretary a report containing—

''(A) information on the activities of the State under this subpart, including statewide information, and information on the activities of each grant recipient in the State;

''(B) information on the effectiveness of the activities, and the progress of recipients of grants under this subpart, on performance measures, including measures described in section 2014(a)(2) and goals described in paragraphs (3) and (4) of section 2012(b); and

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

''(2) DEADLINES.—The State shall submit the reports described in paragraph (1) by such deadlines as the Secretary may establish.

''(b) PUBLIC ACCOUNTABILITY.—

''(1) IN GENERAL.—Each State that receives funds under this subpart—

''(A) in the event the State provides public State report cards on education, shall include in such report cards—

''(i) the percentage of middle school and other secondary school classes in core academic subjects that are taught by out-of-field teachers;

''(ii) the percentage of middle school, other elementary school, and other secondary school classes taught by individuals holding only emergency credentials, or for whom any State certification or licensing standards for teachers have been waived;

''(iii) the average statewide class size; or

''(B) in the event the State provides no such report card, shall disseminate to the public the information described in clauses (i) through (iii) of subparagraph (A) through other means.

''(2) PUBLIC AVAILABILITY.—Such information shall be made widely available to the public, including parents and students, throughout the State.

''(c) GENERAL ACCOUNTING OFFICE.—Not later than September 30, 2004, the Comptroller General of the United States shall—

''(1) conduct a study of the progress of the States in increasing the percentage of teachers who are fully qualified teachers for fiscal years 2001 through 2003; and

''(2) prepare and submit to the Committee on Education and Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the study.

''SEC. 2023. LOCAL APPLICATION ACCOUNTABILITY PROVISIONS.

''Each local application submitted under section 2016 shall contain assurances that—

''(1) the agency will not hire a teacher with funds made available to the agency under this subpart, unless the teacher is a fully qualified teacher;

''(2) the local educational agency and schools served by the agency will work to ensure, through voluntary agreements and incentive programs, that elementary school and secondary school teachers in high-poverty schools served by the local educational agency will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the same local educational agency that are not high-poverty schools;

''(3) any teacher who receives certification from the National Board for Professional Teaching Standards will be considered fully qualified to teach, in the academic subjects in which the teacher is certified, in high-poverty schools in any school district or community served by the local educational agency; and

''(4) the agency will—

''(A) make available, on request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the professional qualifications of the student's classroom teachers with regard to—

''(i) whether the teacher has met State certification or licensing criteria for the academic subjects and grade level in which the teacher teaches the student;

''(ii) whether the teacher is teaching with emergency or whether any State certification or licensing standard has been waived for the teacher; and

''(iii) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches; and

''(B) inform parents that the parents are entitled to receive the information upon request.

''SEC. 2024. LOCAL CONTINUATION OF FUNDING.

''(a) AGENCIES.—If a local educational agency applies for funds under this subpart for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for that fiscal year only if the State determines that the agency has demonstrated that the agency, in carrying out activities under this subpart during the past fiscal year, has met annual numerical performance objectives for—

''(1) improved student performance for all groups described in section 1111(b)(2);

''(2) increased participation in sustained professional development and mentoring programs;

''(3) reduced the beginning teacher attrition rate for the agency; and

''(4) reduced the number of teachers who are not certified or licensed, and the number who are out-of-field teachers, for the agency.

''(b) SCHOOLS.—If a local educational agency applies for funds under this subpart on behalf of a school for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for the school for that fiscal year only if the State determines that the school has demonstrated that the school, in carrying out activities under this subpart during the past fiscal year, has met the requirements of paragraphs (1) through (4) of subsection (a).

''(c) RECRUITMENT PARTNERSHIPS.—

''(1) IN GENERAL.—If not more than 90 percent of the graduates of a teacher corps program assisted under this subpart for a fiscal year pass applicable State or local initial teacher licensing or certification examinations, the recruitment partnership providing the teacher corps program shall be ineligible to receive grant funds for the succeeding fiscal year.

''(2) WAIVER.—The State in which the partnership is located may waive the requirement described in paragraph (1) for a recruitment partnership serving a school district that has special circumstances, such as a district with a small number of corps members.

''SEC. 2025. LOCAL REPORTS.

''(a) IN GENERAL.—Each local educational agency that receives funds under this subpart (including funds received through a partnership) shall prepare, make publicly available, and submit to the State educational agency, every year, beginning in fiscal year 2002, a report on the activities of the agency under this subpart, in such form and containing such information as the State educational agency may reasonably require.

''(b) CONTENTS.—The report shall contain, at a minimum—

''(1) information on progress throughout the schools served by the local educational agency on the performance measures described in section 2014(a)(2) and goals described in paragraphs (3) and (4) of section 2012(b);

''(2) information on progress throughout the schools served by the local educational agency toward achieving the objectives of, and carrying out the activities described in, this subpart;

''(3) data on the progress described in paragraphs (1) and (2), disaggregated by school poverty level, as defined by the State; and

''(4) a description of the methodology used to gather the information and data described in paragraphs (1) through (3).

''Subpart 2—National Activities for the Improvement of Teaching and School Leadership

''Chapter 1—National Activities and Clearinghouse

''SEC. 2031. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to make grants to, and to enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private nonprofit agencies, organizations, and institutions to carry out subsection (b).

''(b) ACTIVITIES.—In making the grants, and entering into the contracts and cooperative agreements, the Secretary—

''(1) may support activities of national significance that are not supported through other sources and that the Secretary determines will contribute to the improvement of teaching and school leadership in the Nation's schools, such as—

''(A) supporting collaborative efforts by States, or consortia of States, to review and measure the quality, rigor, and alignment of State standards and assessments;

''(B) supporting State and local efforts to develop curricula aligned with State standards and assessments;

''(C) supporting collaborative efforts by States, or consortia of States, to review and measure the quality and rigor of standards for entry into the field of teaching, including the alignment of such standards with State standards for students in elementary school and secondary school, and the alignment of initial teacher licensing and certification assessments with State standards for entry into the field of teaching;

''(D) supporting the development of models, at the State and local levels, of innovative compensation systems that—

''(i) provide incentives for talented individuals who have a strong knowledge of academic content to enter teaching; and

''(ii) reward veteran teachers who acquire new knowledge and skills that are needed in the schools and districts in which the teachers teach; and

''(E) supporting collaborative efforts by States, or consortia of States, to develop performance-based systems for assessing content knowledge and teaching skills of teachers prior to initial certification or licensure of the teachers;

''(2) may support activities of national significance that the Secretary determines will contribute to the recruitment and retention of highly qualified teachers and principals in schools served by high-poverty local educational agencies, such as—

''(A) the development and implementation of a national teacher recruitment clearinghouse and job bank, which shall be coordinated and, to the extent feasible, integrated with the America's Job Bank administered by the Secretary of Labor, to—

''(i) disseminate information and resources nationwide on entering the teaching profession, to persons interested in becoming teachers;

''(ii) serve as a national resource center regarding effective practices for teacher professional development and mentoring, recruitment, and retention;

''(iii) link prospective teachers to local educational agencies and training resources;

''(iv) provide information and technical assistance to prospective teachers about certification and licensing and other State and local requirements related to teaching; and

''(v) provide data projections concerning teacher and administrator supply and demand and available teaching and administrator opportunities;

''(B) the development and implementation, or expansion, of programs that recruit talented individuals to become principals, including such programs that employ alternative routes to State certification or licensing that are at least as rigorous as the State's standards for initial certification or licensing of teachers, and that prepare both new and experienced principals to serve as instructional leaders, which may include the creation and operation of a national center or regional centers for the preparation and support of principals as leaders of school reform;

''(C) efforts to increase the portability of teacher pensions and reciprocity of teaching credentials across State lines;

''(D) research, evaluation, and dissemination activities related to effective strategies for increasing the portability of teachers' credited years of experience across State and school district lines;

''(E) the development and implementation of national or regional programs to—

''(i) recruit highly talented individuals to become teachers, through alternative routes to certification or licensing that are at least as rigorous as the State's standards for initial certification or licensing of teachers, in schools served by high-poverty local educational agencies; and

''(ii) help retain the individuals for more than 3 years as classroom teachers in schools served by the local educational agencies; and

''(F) the establishment of partnerships of high-poverty local educational agencies, teacher organizations, and local businesses, in order to help the agencies attract and retain high-quality teachers and principals through provision of increased pay, combined with reforms to raise teacher performance including use of regular, rigorous peer evaluations and (where appropriate) student evaluations of every teacher;

''(3) may support the National Board for Professional Teaching Standards;

''(4)(A) shall carry out a national evaluation, not sooner than 3 years and not later than 4 years after the date of enactment of the Educational Opportunities Act, of the effect of activities carried out under this title, including an assessment of changes in instructional practice and objective measures of student achievement; and

''(B) shall submit a report containing the results of the evaluation to Congress; and

''(5) shall annually submit to Congress a report on the information contained in the State reports described in section 2022.

''SEC. 2032. EISENHOWER NATIONAL CLEARINGHOUSE FOR MATHEMATICS AND SCIENCE EDUCATION.

''(a) ESTABLISHMENT OF CLEARINGHOUSE.—The Secretary shall award a grant or contract, on a competitive basis, to an entity to establish and operate an Eisenhower National Clearinghouse for Mathematics and Science Education (referred to in this section as 'the Clearinghouse').

''(b) AUTHORIZED ACTIVITIES.—

''(1) APPLICATION AND AWARD BASIS.—

''(A) IN GENERAL.—An entity desiring to establish and operate the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(B) PEER REVIEW.—The Secretary shall establish a peer review panel to make recommendations on the recipient of the award for the Clearinghouse.

''(C) BASIS.—The Secretary shall make the award for the Clearinghouse on the basis of merit.

''(2) DURATION.—The Secretary shall award the grant or contract for the Clearinghouse for a period of 5 years.

''(3) ACTIVITIES.—The award recipient shall use the award funds to—

''(A) maintain a permanent collection of such mathematics and science education instructional materials and programs for elementary schools and secondary schools as the Secretary finds appropriate, and give priority to maintaining such materials and programs that have been identified as promising or exemplary, through a systematic approach such as the use of expert panels required under the Educational Research, Development, Dissemination, and Improvement Act of 1994;

''(B) disseminate the materials and programs described in subparagraph (A) to the public, State educational agencies, local educational agencies, and schools (particularly high-poverty, low-performing schools), including dissemination through the maintenance of an interactive national electronic information management and retrieval system accessible through the World Wide Web and other advanced communications technologies;

''(C) coordinate activities with entities operating other databases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international databases;

''(D) using not more than 10 percent of the amount awarded under this section for any fiscal year, participate in collaborative meetings of representatives of the Clearinghouse and regional mathematics and science education consortia to—

''(i) discuss issues of common interest and concern;

''(ii) foster effective collaboration and cooperation in acquiring and distributing instructional materials and programs; and

''(iii) coordinate and enhance computer network access to the Clearinghouse and the resources of the regional consortia;

''(E) support the development and dissemination of model professional development and mentoring materials for mathematics and science education;

''(F) contribute materials or information, as appropriate, to other national repositories or networks; and

''(G) gather qualitative and evaluative data on submissions to the Clearinghouse, and disseminate that data widely, including through the use of electronic dissemination networks.

''(4) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops mathematics or science education instructional materials or programs, including the National Science Foundation and the Department, shall submit copies of that materials or those programs to the Clearinghouse.

''(5) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

''(6) APPLICATION OF COPYRIGHT LAWS.—

''(A) CONSTRUCTION.—Nothing in this section shall be construed to allow the use or copying, in any medium, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the Clearinghouse obtains the permission of the owner of the copyright.

''(B) COMPLIANCE.—In carrying out this section, the Clearinghouse shall ensure compliance with title 17, United States Code.

''Chapter 2—Transition to Teaching

''SEC. 2041. PURPOSE.

''The purpose of this chapter is to address the need of high-poverty local educational agencies for highly qualified teachers in particular academic subjects, such as mathematics, science, foreign languages, bilingual education, and special education needed by the agencies, by—

''(1) continuing and enhancing the Troops to Teachers model for recruiting and supporting the placement of such teachers; and

''(2) recruiting, preparing, placing, and supporting career-changing professionals who have knowledge and experience that will help the professionals become such teachers.

''SEC. 2042. DEFINITIONS.

''In this chapter:

''(1) PROGRAM PARTICIPANT.—The term 'program participant' means a career-changing professional who—

''(A) demonstrates interest in, and commitment to, becoming a teacher; and

''(B) has knowledge and experience that is relevant to teaching a high-need academic subject for a high-poverty local educational agency.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Education, except as otherwise determined in accordance with the agreements described in section 2043(b).

''SEC. 2043. PROGRAM AUTHORIZED.

''(a) AUTHORITY.—Subject to subsection (b), using funds made available to carry out this chapter under section 2003(2)(A) for each fiscal year, the Secretary may award grants, contracts, or cooperative agreements to institutions of higher education and public and private nonprofit agencies or organizations to carry out programs authorized under this chapter.

''(b) IMPLEMENTATION.—

''(1) CONSULTATION.—Before making awards under subsection (a) for any fiscal year, the Secretary of Education shall—

''(A) consult with the Secretary of Defense and the Secretary of Transportation regarding the appropriate amount of funding needed to carry out this chapter; and

''(B) upon agreement, transfer that amount to the Department of Defense to carry out this chapter.

''(2) AGREEMENT.—The Secretary of Education may enter into a written agreement with the Secretary of Defense and the Secretary of Transportation, or take such other steps as the Secretary of Education determines are appropriate, to ensure effective implementation of this chapter.

''SEC. 2044. APPLICATION.

''Each entity that desires an award under section 2043(a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of the target group of career-changing professionals on which the entity will focus in carrying out a program under this chapter, including a description of the characteristics of that target group that shows how the knowledge and experience of the members of the group are relevant to meeting the purpose of this chapter;

''(2) a description of how the entity will identify and recruit program participants;

''(3) a description of the training that program participants will receive and how that training will relate to their certification or licensing as teachers;

''(4) a description of how the entity will ensure that program participants are placed with, and teach for, high-poverty local educational agencies;

''(5) a description of the teacher induction services (which may be provided through induction programs in existence on the date of submission of the application) the program participants will receive throughout at least their first year of teaching;

''(6) a description of how the entity will collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this chapter, including evidence of the commitment of the institutions, agencies, or organizations to the entity's program;

''(7) a description of how the entity will evaluate the progress and effectiveness of the entity's program, including a description of—

''(A) the program's goals and objectives;

''(B) the performance indicators the entity will use to measure the program's progress; and

''(C) the outcome measures that the entity will use to determine the program's effectiveness; and

''(8) an assurance that the entity will provide to the Secretary such information as the Secretary determines to be necessary to determine the overall effectiveness of programs carried out under this chapter.

''SEC. 2045. USES OF FUNDS AND PERIOD OF SERVICE.

''(a) AUTHORIZED ACTIVITIES.—Funds made available under this chapter may be used for—

''(1) recruiting program participants, including informing individuals who are potential participants of opportunities available under the program and putting the individuals in contact with other institutions, agencies, or organizations that would train, place, and support the individuals;

''(2) providing training stipends and other financial incentives for program participants, such as paying for moving expenses, not to exceed $5,000, in the aggregate, per participant;

''(3) assisting institutions of higher education or other providers of teacher training to tailor their training to meet the particular needs of professionals who are changing their careers to teaching;

''(4) providing placement activities, including identifying high-poverty local educational agencies with needs for the particular skills and characteristics of the newly trained program participants and assisting the participants to obtain employment with the local educational agencies; and

''(5) providing post-placement induction or support activities for program participants.

''(b) PERIOD OF SERVICE.—A program participant in a program under carried out under this chapter who completes the participant's training shall serve in a high-poverty local educational agency for at least 3 years.

''(c) REPAYMENT.—The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that program participants who receive a training stipend or other financial incentive under subsection (a)(2), but fail to complete their service obligation under subsection (b), repay all or a portion of such stipend or other incentive.

''SEC. 2046. EQUITABLE DISTRIBUTION.

''To the extent practicable, the Secretary shall make awards under this chapter that support programs in different geographic regions of the Nation.

''Chapter 3—Hometown Teachers

''SEC. 2051. PURPOSE.

''The purpose of this chapter is to support the efforts of high-need local educational agencies to develop and implement comprehensive approaches to recruiting and retaining highly qualified teachers, including recruiting such teachers through Hometown Teacher programs that carry out long-term strategies to expand the capacity of the communities served by the agencies to produce local teachers.

''SEC. 2052. DEFINITION.

''The term 'high-need local educational agency' means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

''(1) a high percentage (as determined by the State in which the agency is located) of individuals from families with incomes below the poverty line;

''(2) a high percentage (as determined by the State in which the agency is located) of secondary school teachers not teaching in the core academic subjects in which the teachers were trained to teach; or

''(3) a high percentage (as determined by the State in which the agency is located) of elementary school and secondary school teachers who are not fully qualified teachers.

''SEC. 2053. PROGRAM AUTHORIZED.

''From funds made available to carry out this chapter under section 2003(2)(B) for each fiscal year, the Secretary may award grants to high-need local educational agencies to carry out Hometown Teacher programs and other activities described in this chapter.

''SEC. 2054. APPLICATIONS.

''Each high-need local educational agency that desires to receive a grant under section

2053 shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of the local educational agency's assessment of the agency's needs for teachers, such as the agency's projected shortage of qualified teachers and the percentage of teachers serving the agency who lack certification or licensure or who are teaching out of field;

''(2) a description of a Hometown Teacher program that the local educational agency plans to develop and implement with the funds made available through the grant, including a description of—

''(A) strategies the agency will use to—

''(i) encourage secondary school and middle school students in schools served by the local educational agency to consider pursuing careers in the teaching profession; and

''(ii) provide support at the undergraduate level to those students who intend to become teachers; and

''(B) the agency's plans to streamline the hiring timelines in the hiring policies and practices of the agency for participants in the Hometown Teacher program;

''(3) a description of the long-term strategies that the agency will use, if any, to reduce the agency's teacher attrition rate, including providing mentoring programs and making efforts to raise teacher salaries and create more desirable working conditions for teachers;

''(4) a description of the agency's strategy for ensuring that all secondary school teachers and middle school teachers in the school district are fully certified or licensed in an academic subject and are teaching the majority of their classes in the subject in which the teachers are certified or licensed;

''(5) a description of the short-term strategies the agency will use, if any, to address the agency's teacher shortage problem, including the strategies the agency will use to ensure that the teachers that the local educational agency is targeting for employment are fully certified or licensed;

''(6) a description of the agency's long-term plan for ensuring that the agency's teachers have opportunities for sustained, high-quality professional development;

''(7) a description of the ways in which the activities proposed to be carried out through the grant are part of the agency's overall plan for improving the quality of teaching and student achievement;

''(8) a description of how the agency will collaborate, as needed, with other institutions, agencies, or organizations to develop and implement the strategies the agency proposes in the application, including evidence of the commitment of the institutions, agencies, or organizations to the agency's activities;

''(9) a description of the strategies the agency will use to coordinate activities funded under the program carried out under this chapter with activities funded through other Federal programs that address teacher shortages, including programs carried out through grants to local educational agencies under title I or this title, including chapter 2, if the applicant receives funds from the programs;

''(10) a description of how the agency will evaluate the progress and effectiveness of the Hometown Teacher program, including a description of—

''(A) the agency's goals and objectives for the program;

''(B) the performance indicators that the agency will use to measure the program's effectiveness; and

''(C) the measurable outcome measures, such as increased percentages of fully certified or licensed teachers, that the agency will use to determine the program's effectiveness; and

''(11) an assurance that the agency will provide to the Secretary such information as the Secretary determines to be necessary to determine the overall effectiveness of programs carried out under this chapter.

''SEC. 2055. PRIORITY.

''In awarding grants under this chapter, the Secretary may give priority to agencies submitting applications that—

''(1) focus on increasing the percentage of qualified teachers in particular teaching fields, such as mathematics, science, and bilingual education; and

''(2) focus on recruiting qualified teachers for certain types of communities, such as urban and rural communities.

''SEC. 2056. USE OF FUNDS.

''(a) MANDATORY USE OF FUNDS.—A local educational agency that receives a grant under this chapter shall use the funds made available through the grant to develop and implement long-term strategies to address the agency's teacher shortage, including carrying out Hometown Teacher programs such as the programs described in section 2051.

''(b) PERMISSIBLE USE OF FUNDS.—A local educational agency that receives a grant under this chapter may use the funds made available through the grant to—

''(1) develop and implement strategies to reduce the local educational agency's teacher attrition rate, including providing mentoring programs, increasing teacher salaries, and creating more desirable working conditions for teachers; and

''(2) develop and implement short-term strategies to address the agency's teacher shortage, including providing scholarships to undergraduates who agree to teach in the school district served by the agency for a certain number of years, providing signing bonuses for teachers, and implementing streamlined hiring practices.

''(c) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this chapter shall be used to supplement, and shall not supplant, State and local funds expended to carry out programs and activities authorized under this chapter.

''SEC. 2057. SERVICE REQUIREMENTS.

''(a) IN GENERAL.—The Secretary shall establish such requirements as the Secretary finds to be necessary to ensure that a recipient of a scholarship under this chapter who completes a teacher education program subsequently—

''(1) teaches in a school district served by a high-need local educational agency, for a period of time equivalent to the period for which the recipient received the scholarship; or

''(2) repays the amount of the funds provided through the scholarship.

''(b) USE OF REPAID FUNDS.—The Secretary shall deposit any such repaid funds in an account, and use the funds to carry out additional activities under this chapter.

''Chapter 4—Early Childhood Educator Professional Development

''SEC. 2061. PURPOSE.

''In support of the national effort to attain the first of America's Education Goals, the purpose of this chapter is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent them from encountering reading difficulties once they enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

''SEC. 2062. PROGRAM AUTHORIZED.

''(a) GRANTS TO PARTNERSHIPS.—The Secretary shall carry out the purpose of this chapter by awarding grants, on a competitive basis, to partnerships consisting of—

''(1)(A) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

''(B) another public or private, nonprofit entity that provides such professional development;

''(2) one or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private, nonprofit organizations; and

''(3) to the extent feasible, an entity with demonstrated experience in providing violence prevention education training to educators in early childhood education programs.

''(b) PRIORITY.—In awarding grants under this chapter, the Secretary shall give priority to partnerships that include 1 or more local educational agencies which operate early childhood education programs for children from low-income families in high-need communities.

''(c) DURATION AND NUMBER OF GRANTS.—

''(1) DURATION.—Each grant under this chapter shall be awarded for not more than 4 years.

''(2) NUMBER.—No partnership may receive more than 1 grant under this chapter.

''SEC. 2063. APPLICATIONS.

''(a) APPLICATIONS REQUIRED.—Any partnership that desires to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(b) CONTENTS.—Each such application shall include—

''(1) a description of the high-need community to be served by the project, including such demographic and socioeconomic information as the Secretary may request;

''(2) information on the quality of the early childhood educator professional development program currently conducted by the institution of higher education or other provider in the partnership;

''(3) the results of the assessment that the entities in the partnership have undertaken to determine the most critical professional development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

''(4) a description of how the proposed project will be carried out, including—

''(A) how individuals will be selected to participate;

''(B) the types of research-based professional development activities that will be carried out;

''(C) how research on effective professional development and on adult learning will be used to design and deliver project activities;

''(D) how the project will coordinate with and build on, and will not supplant or duplicate, early childhood education professional development activities that exist in the community;

''(E) how the project will train early childhood educators to provide services that are based on developmentally appropriate practices and the best available research on child, language, and literacy development and on early childhood pedagogy;

''(F) how the program will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English

proficiency, disabilities, or other special needs; and

''(G) how the project will train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;

''(5) a description of—

''(A) the specific objectives that the partnership will seek to attain through the project, and how the partnership will measure progress toward attainment of those objectives; and

''(B) how the objectives and the measurement activities align with the performance indicators established by the Secretary under section 2066(a);

''(6) a description of the partnership's plan for institutionalizing the activities carried out under the project, so that the activities continue once Federal funding ceases;

''(7) an assurance that, where applicable, the project will provide appropriate professional development to volunteer staff, as well as to paid staff; and

''(8) an assurance that, in developing its application and in carrying out its project, the partnership has consulted with, and will consult with, relevant agencies and early childhood educator organizations described in section 2062(a)(2) that are not members of the partnership.

''SEC. 2064. SELECTION OF GRANTEES.

''(a) CRITERIA.—The Secretary shall select partnerships to receive funding on the basis of the community's need for assistance and the quality of the applications.

''(b) GEOGRAPHIC DISTRIBUTION.—In selecting partnerships, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

''SEC. 2065. USES OF FUNDS.

''(a) IN GENERAL.—Each partnership receiving a grant under this chapter shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.

''(b) ALLOWABLE ACTIVITIES.—Such activities may include—

''(1) professional development for individuals working as early childhood educators, particularly to familiarize those individuals with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

''(2) professional development for early childhood educators in working with parents, based on the best current research on child, language, and literacy development and parent involvement, so that the educators can prepare their children to succeed in school;

''(3) professional development for early childhood educators to work with children who have limited English proficiency, disabilities, and other special needs;

''(4) professional development to train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;

''(5) activities that assist and support early childhood educators during their first three years in the field;

''(6) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

''(7) professional development activities related to the selection and use of research-based diagnostic assessments to improve teaching and learning; and

''(8) data collection, evaluation, and reporting needed to meet the requirements of this chapter relating to accountability.

''SEC. 2066. ACCOUNTABILITY.

''(a) PERFORMANCE INDICATORS.—Simultaneously with the publication of any application notice for grants under this chapter, the Secretary shall announce performance indicators for this chapter, which shall be designed to measure—

''(1) the quality and assessability of the professional development provided;

''(2) the impact of that professional development on the early childhood education provided by the individuals who are trained; and

''(3) such other measures of program impact as the Secretary determines appropriate.

''(b) ANNUAL REPORTS; TERMINATION.—

''(1) ANNUAL REPORTS.—Each partnership receiving a grant under this chapter shall report annually to the Secretary on the partnership's progress against the performance indicators.

''(2) TERMINATION.—The Secretary may terminate a grant under this chapter at any time if the Secretary determines that the partnership is not making satisfactory progress against the indicators.

''SEC. 2067. COST-SHARING.

''(a) IN GENERAL.—Each partnership shall provide, from other sources, which may include other Federal sources—

''(1) at least 50 percent of the total cost of its project for the grant period; and

''(2) at least 20 percent of the project cost in each year.

''(b) ACCEPTABLE CONTRIBUTIONS.—A partnership may meet the requirement of subsection (a) through cash or in-kind contributions, fairly valued.

''(c) WAIVERS.—The Secretary may waive or modify the requirements of subsection (a) in cases of demonstrated financial hardship.

''SEC. 2068. FEDERAL COORDINATION.

''The Secretary and the Secretary of Health and Human Services shall coordinate activities under this chapter and other early childhood programs administered by the two Secretaries.

''SEC. 2069. DEFINITIONS.

''In this chapter:

''(1) HIGH-NEED COMMUNITY.—

''(A) IN GENERAL.—The term 'high-need community' means—

''(i) a municipality, or a portion of a municipality, in which at least 50 percent of the children are from low-income families; or

''(ii) a municipality that is one of the 10 percent of municipalities within the State having the greatest numbers of such children.

''(B) DETERMINATION.—In determining which communities are described in subparagraph (A), the Secretary shall use such data as the Secretary determines are most accurate and appropriate.

''(2) LOW-INCOME FAMILY.—The term 'low-income family' means a family with an income below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available.

''(3) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means a person who provides care and education to children at any age from birth through kindergarten.''.

(b) CONFORMING AMENDMENT.—The Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.) is repealed.

Subtitle B—Safe, Healthy Schools and Communities

CHAPTER 1—GRANTS FOR SCHOOL RENOVATION

SEC. 311. GRANTS FOR SCHOOL RENOVATION.

Title X (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

''PART L—SCHOOL RENOVATION

''SEC. 10995. GRANTS FOR SCHOOL RENOVATION.

''(a) IN GENERAL.—

''(1) ALLOCATION OF FUNDS.—Of the amount appropriated for each fiscal year under subsection (k), the Secretary of Education shall allocate—

''(A) 6.0 percent of such amount for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

''(B) 0.25 percent of such amount for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

''(C) 2 percent of such amount for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of this title X; and

''(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I for fiscal year 2001, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

''(2) DETERMINATION OF GRANT AMOUNT.—

''(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

''(i) for each impacted local educational agency that receives funds under this section; and

''(ii) for all such agencies together.

''(B) COMPUTATION OF PAYMENT.—For fiscal year 2002, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—

''(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

''(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

''(3) DEFINITION.—For purposes of this section, the term 'impacted local educational agency' means, for fiscal year 2001—

''(A) a local educational agency that receives a basic support payment under section 8003(b) for such fiscal year; and

''(B) with respect to which the number of children determined under section 8003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

''(b) WITHIN-STATE ALLOCATIONS.—

''(1) ADMINISTRATIVE COSTS.—

''(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

''(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph

for the purpose of administering the distribution of grants under this subsection.

''(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the 'State entity') for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

''(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

''(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I for fiscal year 2002 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

''(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I for fiscal year 2001 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

''(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

''(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

''(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

''(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

''(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

''(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

''(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

''(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

''(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

''(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

''(D) POSSIBLE MATCHING REQUIREMENT.—

''(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

''(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

''(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

''(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(ii) For technology activities that are carried out in connection with school repair and renovation, including—

''(I) wiring;

''(II) acquiring hardware and software;

''(III) acquiring connectivity linkages and resources; and

''(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

''(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

''(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 14101(2)).

''(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

''(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

''(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

''(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

''(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

''(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, or sewage systems;

''(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

''(iii) bringing public schools into compliance with fire and safety codes.

''(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

''(D) Asbestos abatement or removal from public school facilities.

''(E) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

''(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

''(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

''(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

''(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

''(3) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency (as defined in section 14101(18)).

''(4) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

''(d) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

''(e) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

''(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

''(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

''(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public.

''(f) REPORTING.—

''(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2003, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(3) ADDITIONAL REPORTS.—Each entity receiving funds allocated under subsection (a)(1) (A) of (B) shall submit to the Secretary, not later than December 31, 2003, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

''(g) APPLICABILITY OF PART B OF IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

''(h) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for fiscal year 2002, or does not use its entire allocation for such fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

''(i) PARTICIPATION OF PRIVATE SCHOOLS.—

''(1) IN GENERAL.—Section 6402 shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI, except that—

''(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

''(B) the term 'services' as used in section 6402 with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

''(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

''(iii) asbestos abatement or removal from school facilities; and

''(C) notwithstanding the requirements of section 6402(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

''(2) REMAINING FUNDS.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

''(3) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

''(j) DEFINITIONS.—For purposes of this section:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 10310(1).

''(2) POOR CHILDREN AND CHILD POVERTY.—The terms 'poor children' and 'child poverty' refer to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

''(3) RURAL LOCAL EDUCATIONAL AGENCY.—The term 'rural local educational agency' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term 'rural'.

''(4) STATE.—The term 'State' means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,600,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

SEC. 312. CHARTER SCHOOL CREDIT ENHANCEMENT INITIATIVE.

Section 10331, as added by section 322 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554) is amended by inserting before the period the following: '', and such sums as may be necessary for each of fiscal years 2002 through 2006''.

CHAPTER 2—SCHOOL CONSTRUCTION

SEC. 321. SHORT TITLE.

This chapter may be cited as the ''America's Better Classrooms Act of 2001''.

SEC. 322. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

''Subchapter X—Public School Modernization Provisions

''SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified public school modernization bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified public school modernization bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

''(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term 'qualified public school modernization bond' means—

''(A) a qualified zone academy bond, and

''(B) a qualified school construction bond.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.
Such term includes the last day on which the bond is outstanding.

''(e) OTHER DEFINITIONS.—For purposes of this subchapter—

''(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include—

''(A) any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or

''(B) any facility which is not owned by a State or local government or any agency or instrumentality of a State or local government.

''(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(g) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(h) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified public school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified public school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(j) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(k) REPORTING.—Issuers of qualified public school modernization bonds shall submit reports similar to the reports required under section 149(e).

''(l) TERMINATION.—This section shall not apply to any bond issued after September 30, 2006.

''SEC. 1400G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

''(3) the issuer designates such bond for purposes of this section, and

''(4) the term of each bond which is part of such issue does not exceed 15 years.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

''(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

''(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

''(1) $11,000,000,000 for 2002,

''(2) $11,000,000,000 for 2003, and

''(3) except as provided in subsection (f), zero after 2003.

''(d) 60 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

''(1) IN GENERAL.—60 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State and such allocations may be made only if there is an approved State application.

''(2) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

''(i) the amount allocated to such State under this subsection for such year, and

''(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

''(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

''(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

''(4) ALLOCATIONS FOR INDIAN SCHOOLS.—The provisions of section 1400J shall apply with respect to the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. No funds may be allocated under this section for such schools.

''(5) APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term 'approved State application' means an application which is approved by the Secretary of Education and which includes—

''(A) the results of a recent publicly-available survey (undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction and management) of such State's needs for public school facilities, including descriptions of—

''(i) health and safety problems at such facilities,

''(ii) the capacity of public schools in the State to house projected enrollments, and

''(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

''(B) a description of how the State will allocate to local educational agencies, or otherwise use, its allocation under this subsection to address the needs identified under subparagraph (A), including a description of how it will—

''(i) ensure that the needs of both rural and urban areas will be recognized,

''(ii) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

''(iii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, and

''(iv) ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such allocation.

Any allocation under paragraph (1) by a State shall be binding if such State reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

''(e) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

''(1) IN GENERAL.—40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year. No qualified school construction bond may be issued by reason of an allocation to a large local educational agency under the preceding sentence unless such agency has an approved local application.

''(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

''(3) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the preceding sentence may be allocated as provided in subsection (d)(1).

''(4) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

''(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

''(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

''(5) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term 'approved local application' means an application which is approved by the Secretary of Education and which includes—

''(A) the results of a recent publicly-available survey (undertaken by the local educational agency or the State with the involvement of school officials, members of the public, and experts in school construction and management) of such agency's needs for public school facilities, including descriptions of—

''(i) the overall condition of the local educational agency's school facilities, including health and safety problems,

''(ii) the capacity of the agency's schools to house projected enrollments, and

''(iii) the extent to which the agency's schools offer the physical infrastructure needed to provide a high-quality education to all students,

''(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

''(C) a description of how the local educational agency will ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, or repair in the locality that would have occurred in the absence of such allocation.

A rule similar to the rule of the last sentence of subsection (d)(6) shall apply for purposes of this paragraph.

''(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(1) the amount allocated under subsection (d) to any State, exceeds

''(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(5) or (e).

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—A bond shall not be treated as failing to meet the requirement of subsection (a)(1) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued.

''(2) BINDING COMMITMENT REQUIREMENT.—Paragraph (1) shall apply to an issue only if, as of the date of issuance, there is a reasonable expectation that—

''(A) at least 10 percent of the proceeds of the issue will be spent within the 6-month period beginning on such date for the purpose for which such issue was issued, and

''(B) the remaining proceeds of the issue will be spent with due diligence for such purpose.

''(3) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the temporary period shall be treated as proceeds of the issue for purposes of applying subsection (a)(1) and paragraph (1) of this subsection.

''SEC. 1400H. QUALIFIED ZONE ACADEMY BONDS.

''(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this subchapter—

''(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

''(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

''(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

''(D) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1400G(g) shall apply for purposes of paragraph (1).

''(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

''(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(iii) services of employees as volunteer mentors,

''(iv) internships, field trips, or other educational opportunities outside the academy for students, or

''(v) any other property or service specified by the local educational agency.

''(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

''(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

''(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

''(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

''(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

''(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

''(B) acquiring the land on which such facility is to be constructed with part of the proceeds of such issue,

''(C) providing equipment for use at such academy,

''(D) developing course materials for education to be provided at such academy, and

''(E) training teachers and other school personnel in such academy.

''(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

''(A) $400,000,000 for 1999,

''(B) $400,000,000 for 2000,

''(C) $400,000,000 for 2001,

''(D) $1,400,000,000 for 2002,

''(E) $1,400,000,000 for 2003, and

''(F) except as provided in paragraph (3), zero after 2003.

''(2) ALLOCATION OF LIMITATION.—

''(A) ALLOCATION AMONG STATES.—

''(i) 1999, 2000, and 2001 LIMITATIONS.—The national zone academy bond limitations for calendar years 1999, 2000, and 2001 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

''(ii) LIMITATION AFTER 2001.—The national zone academy bond limitation for any calendar year after 2001 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

''(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.

''(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the limitation amount under this subsection for any State, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (a) (or the corresponding provisions of prior law) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess.''

(b) REPORTING.—Subsection (d) of section 6049 of such Code (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 1400F(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400F(d)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''

(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 of such Code is amended by striking part IV, by redesignating part V as part IV, and by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 of such Code is amended by adding at the end the following new item:

''Subchapter X. Public school modernization provisions.''

(3) The table of parts of subchapter U of chapter 1 of such Code is amended by striking the last 2 items and inserting the following item:

''Part IV. Regulations.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2001.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.

SEC. 323. APPLICATION OF CERTAIN LABOR STANDARDS ON CONSTRUCTION PROJECTS FINANCED UNDER PUBLIC SCHOOL MODERNIZATION PROGRAM.

Section 439 of the General Education Provisions Act (relating to labor standards) is amended—

(1) by inserting ''(a)'' before ''All laborers and mechanics'', and

(2) by adding at the end the following:

''(b)(1) For purposes of this section, the term 'applicable program' also includes the qualified zone academy bond provisions enacted by section 226 of the Taxpayer Relief Act of 1997 and the program established by section 322 of the America's Better Classroom Act of 2001.

''(2) A State or local government participating in a program described in paragraph (1) shall—

''(A) in the awarding of contracts, give priority to contractors with substantial numbers of employees residing in the local education area to be served by the school being constructed; and

''(B) include in the construction contract for such school a requirement that the contractor give priority in hiring new workers to individuals residing in such local education area.

''(3) In the case of a program described in paragraph (1), nothing in this subsection or subsection (a) shall be construed to deny any tax credit allowed under such program. If amounts are required to be withheld from contractors to pay wages to which workers are entitled, such amounts shall be treated as expended for construction purposes in determining whether the requirements of such program are met.''.

SEC. 324. EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.

(a) IN GENERAL.—Section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864) is amended by adding at the end the following:

''(f) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.—

''(1) IN GENERAL.—In order to provide training services related to construction or reconstruction of public school facilities receiving funding assistance under an applicable program, each State shall establish a specialized program of training meeting the following requirements:

''(A) The specialized program provides training for jobs in the construction industry.

''(B) The program provides trained workers for projects for the construction or reconstruction of public school facilities receiving funding assistance under an applicable program.

''(C) The program ensures that skilled workers (residing in the area to be served by the school facilities) will be available for the construction or reconstruction work.

''(2) COORDINATION.—The specialized program established under paragraph (1) shall be integrated with other activities under this Act, with the activities carried out under the National Apprenticeship Act of 1937 by the State Apprenticeship Council or through the Bureau of Apprenticeship and Training in the Department of Labor, as appropriate, and with activities carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998. Nothing in this subsection shall be construed to require services duplicative of those referred to in the preceding sentence.

''(3) APPLICABLE PROGRAM.—In this subsection, the term 'applicable program' has the meaning given the term in section 439(b) of the General Education Provisions Act (relating to labor standards).''.

(b) STATE PLAN.—Section 112(b)(17)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(17)(A)) is amended—

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

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following:

''(iv) how the State will establish and carry out a specialized program of training under section 134(f); and''.

SEC. 325. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term ''Bureau'' means the Bureau of Indian Affairs of the Department of the Interior.

(2) INDIAN.—The term ''Indian'' means any individual who is a member of a tribe.

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

(4) TRIBAL SCHOOL.—The term ''tribal school'' means an elementary school, secondary school, or dormitory that is operated by a tribal organization or the Bureau for the education of Indian children and that receives financial assistance for its operation under an appropriation for the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) under a contract, a grant, or an agreement, or for a Bureau-operated school.

(5) TRIBE.—The term ''tribe'' has the meaning given the term ''Indian tribal government'' by section 7701(a)(40) of the Internal Revenue Code of 1986, including the application of section 7871(d) of such Code. Such term includes any consortium of tribes approved by the Secretary.

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible tribes have the authority to issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools, including the advance planning and design thereof.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), a tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by such bond will be used primarily for elementary and secondary educational purposes for not less than the period such bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction meets the requirements of this subparagraph if such plan—

(i) contains a description of the construction to be undertaken with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been undertaken concerning the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined appropriate by the Secretary.

(C) PRIORITY.—In determining whether a tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to tribes that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List as of FY 2000 of the Bureau of Indian Affairs (65 Fed. Reg. 4623-4624);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) which meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—A tribe may propose in its plan of construction to receive advance planning and design funding from the tribal school modernization escrow account established under paragraph (6)(B). Before advance planning and design funds are allocated from the escrow account, the tribe shall agree to issue qualified tribal school modernization bonds after the receipt of such funds and agree as a condition of each bond issuance that the tribe will deposit into such account or a fund managed by the trustee as described in paragraph (4)(C) an amount equal to the amount of such funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), a tribe may use amounts received

through the issuance of a qualified tribal school modernization bond to—

(A) enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms in order to determine the needs of the tribal school and for the design and engineering of the school;

(B) enter into and make payments under contracts with financial advisors, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the tribe in issuing bonds; and

(C) carry out other activities determined appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by a tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of such bond, a transfer of funds from the tribal school modernization escrow account established under paragraph (6)(B) or from other funds furnished by or on behalf of the tribe in an amount, which together with interest earnings from the investment of such funds in obligations of or fully guaranteed by the United States or from other investments authorized by paragraph (10), will produce moneys sufficient to timely pay in full the entire principal amount of such bond on the stated maturity date therefore;

(iv) invest the funds received pursuant to clause (iii) as provided by such clause; and

(v) hold and invest the funds in a segregated fund or account under the agreement, which fund or account shall be applied solely to the payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with requirements that the tribe shall prescribe in the trust agreement entered into under subparagraph (C). Before making a payment to a contractor under subparagraph (C)(v), the trustee shall require an inspection of the project by a local financial institution or an independent inspecting architect or engineer, to ensure the completion of the project.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—No principal payments on any qualified tribal school modernization bond shall be required until the final, stated maturity of such bond, which stated maturity shall be within 15 years from the date of issuance. Upon the expiration of such period, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—In lieu of interest on a qualified tribal school modernization bond there shall be awarded a tax credit under section 1400F of the Internal Revenue Code of 1986.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, beginning in fiscal year 2002, from amounts made available for school replacement under the construction account of the Bureau, the Secretary is authorized to deposit not more than $30,000,000 each fiscal year into a tribal school modernization escrow account.

(ii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (iii) to make payments to trustees appointed and acting pursuant to paragraph (4) or to make payments described in paragraph (2)(D).

(iii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the tribal school modernization escrow account.

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds furnished under paragraph (4)(C)(iii). No qualified tribal school modernization bond issued by a tribe shall be an obligation of, nor shall payment of the principal thereof be guaranteed by, the United States.

(B) LAND AND FACILITIES.—Any land or facilities purchased or improved with amounts derived from qualified tribal school modernization bonds issued under this subsection shall not be mortgaged or used as collateral for such bonds.

(8) SALE OF BONDS.—Qualified tribal school modernization bonds may be sold at a purchase price equal to, in excess of, or at a discount from the par amount thereof.

(9) TREATMENT OF TRUST AGREEMENT EARNINGS.—Any amounts earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall not be subject to Federal income tax.

(10) INVESTMENT OF SINKING FUNDS.—Any sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond shall be invested in obligations issued by or guaranteed by the United States or in such other assets as the Secretary of the Treasury may by regulation allow.

(c) EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.—Chapter 1 of the Internal Revenue Code of 1986 (as amended by section 322) is further amended by adding at the end the following new subchapter:

"Subchapter XI—Tribal School Modernization Provisions

"SEC. 1400J. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND; OTHER DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND.—

''(A) IN GENERAL.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 2(c) of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—

''(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(ii) the bond is issued by a tribe,

''(iii) the issuer designates such bond for purposes of this section, and

''(iv) the term of each bond which is part of such issue does not exceed 15 years.

''(B) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(i) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

''(I) $200,000,000 for 2002,

''(II) $200,000,000 for 2003, and

''(III) zero after 2003.

''(ii) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization

bond limitation shall be allocated to tribes by the Secretary of the Interior subject to the provisions of section 2 of the Indian School Construction Act, as in effect on the date of the enactment of this section.

''(iii) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

''(iv) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(I) the limitation amount under this subparagraph, exceeds

''(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2010.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(3) BOND.—The term 'bond' includes any obligation.

''(4) TRIBE.—The term ''tribe'' has the meaning given the term ''Indian tribal government'' by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

''(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(f) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(g) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tribal school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tribal school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(h) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(i) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(j) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

''(k) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).''.

(d) ADDITIONAL PROVISIONS.—

(1) SOVEREIGN IMMUNITY.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) APPLICATION.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2001, regardless of the status of regulations promulgated thereunder.

CHAPTER 3—21ST CENTURY COMMUNITY LEARNING CENTERS

SEC. 331. REAUTHORIZATION.

Section 10907 (20 U.S.C. 8247) is amended by striking ''$20,000,000 for fiscal year 1995'' and all that follows through the period and inserting ''$1,000,000,000 for each of fiscal years 2002 through 2006, to carry out this part.''.

CHAPTER 4—ENHANCEMENT OF BASIC LEARNING SKILLS

SEC. 341. REDUCING CLASS SIZE.

Title X (20 U.S.C. 8001 et seq.), as amended by section 311, is further amended by adding at the end the following:

''PART M—CLASS SIZE REDUCTION

''SEC. 10998. GRANTS FOR CLASS SIZE REDUCTION.

''(a) IN GENERAL.—From the amount appropriated for a fiscal year under subsection (i), the Secretary of Education—

''(1) shall make available 1 percent of such amount to the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities under this section; and

''(2) shall allocate the remainder by providing each State the same percentage of that remainder as it received of the funds allocated to States under section 307(a)(2) of the Department of Education Appropriations Act, 1999.

''(b) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—Each State that receives funds under this section shall distribute 100 percent of such funds to local educational agencies, of which—

''(A) 80 percent of such amount shall be allocated to such local educational agencies in proportion to the number of children, aged 5 to 17, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for that fiscal year; and

''(B) 20 percent of such amount shall be allocated to such local educational agencies in accordance with the relative enrollments of children, aged 5 to 17, in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

''(2) EXCEPTION.—Notwithstanding paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher in that agency, who is certified within the State (which may include certification through State or local alternative routes), has a baccalaureate degree, and demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section to—

''(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds; or

''(B) pay for activities described in subsection (c)(2)(A)(iii) which may be related to teaching in smaller classes.

''(c) USE OF FUNDS.—

''(1) PURPOSE, INTENT, AND GENERAL USE.—The basic purpose and intent of this section is to reduce class size with fully qualified teachers. Each local educational agency that receives funds under this section shall use such funds to carry out effective approaches to reducing class size with fully qualified teachers who are certified within the State, including teachers certified through State or local alternative routes, and who demonstrate competency in the areas in which they teach, to improve educational achievement for both regular and special needs children, with particular consideration given to reducing class size in the early elementary grades for which some research has shown class size reduction is most effective.

''(2) SPECIFIC USES.—

''(A) IN GENERAL.—Each such local educational agency may use funds under this section for—

''(i) recruiting (including through the use of signing bonuses, and other financial incentives), hiring, and training fully qualified regular and special education teachers (which may include hiring special education teachers to team-teach with regular teachers in classrooms that contain both children with disabilities and non-disabled children) and teachers of special-needs children who are certified within the State, including teachers certified through State or local alternative routes, have a baccalaureate degree and demonstrate the general knowledge, teaching skills, and subject matter knowledge required to teach in their content areas;

''(ii) testing new teachers for academic content knowledge and to meet State certification requirements that are consistent with title II of the Higher Education Act of 1965; and

''(iii) providing professional development (which may include such activities as those described in section 2210, opportunities for teachers to attend multi-week institutes, such as those made available during the summer months that provide intensive professional development in partnership with local educational agencies and initiatives that promote retention and mentoring), to teachers, including special education teachers and teachers of special-needs children, in order to meet the goal of ensuring that all instructional staff have the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or areas in which they provide instruction, consistent with title II of the Higher Education Act of 1965.

''(B) LIMITATION.—

''(i) IN GENERAL.—Except as provided under clause (ii), a local educational agency may use not more than a total of 25 percent of the award received under this section for activities described in clauses (ii) and (iii) of subparagraph (A).

(ii) EXCEPTION.—A local educational agency in which 10 percent or more of teachers in elementary schools, as defined by section 14101(14), have not met applicable State and local certification requirements (including certification through State or local alternative routes), or if such requirements have been waived, may use more than 25 percent of the funds it receives under this section for

activities described in subparagraph (A)(iii) to help teachers who are not certified by the State become certified, including through State or local alternative routes, or to help teachers affected by class size reduction who lack sufficient content knowledge to teach effectively in the areas they teach to obtain that knowledge, if the local educational agency notifies the State educational agency of the percentage of the funds that it will use for the purpose described in this clause.

''(C) USE FOR FURTHER REDUCTIONS.—A local educational agency that has already reduced class size in the early grades to 18 or less children (or has already reduced class size to a State or local class size reduction goal that was in effect on the day before the enactment of the Department of Education Appropriations Act, 2000, if that State or local educational agency goal is 20 or fewer children) may use funds received under this section—

''(i) to make further class size reductions in grades kindergarten through 3;

''(ii) to reduce class size in other grades; or

''(iii) to carry out activities to improve teacher quality including professional development.

''(D) PROFESSIONAL DEVELOPMENT.—If a local educational agency has already reduced class size in the early grades to 18 or fewer children and intends to use funds provided under this section to carry out professional development activities, including activities to improve teacher quality, then the State shall make the award under subsection (b) to the local educational agency.

''(3) SUPPLEMENT NOT SUPPLANT.—Each such agency shall use funds under this section only to supplement, and not to supplant, State and local funds that, in the absence of such funds, would otherwise be spent for activities under this section.

''(4) LIMITATION.—No funds made available under this section may be used to increase the salaries or provide benefits, other than participation in professional development and enrichment programs, to teachers who are not hired under this section. Funds under this section may be used to pay the salary of teachers hired under section 307 of the Department of Education Appropriations Act, 1999, or under section 310 of the Department of Education Appropriations Act, 2000.

''(d) REPORTING.—

''(1) IN GENERAL.—Each State receiving funds under this section shall report on activities in the State under this section, consistent with section 6202(a)(2).

''(2) REPORTING TO PARENTS.—Each State and local educational agency receiving funds under this section shall publicly report to parents on its progress in reducing class size, increasing the percentage of classes in core academic areas taught by fully qualified teachers who are certified within the State and demonstrate competency in the content areas in which they teach, and on the impact that hiring additional highly qualified teachers and reducing class size, has had, if any, on increasing student academic achievement.

''(3) PROVISION OF QUALIFICATION TO PARENTS.—Each school receiving funds under this section shall provide to parents, upon request, the professional qualifications of their child's teacher.

''(e) PROFESSIONAL DEVELOPMENT.—If a local educational agency uses funds made available under this section for professional development activities, the agency shall ensure for the equitable participation of private nonprofit elementary and secondary schools in such activities. Section 6402 shall not apply to other activities under this section.

''(f) LIMITATION ON ADMINISTRATIVE COSTS.—A local educational agency that receives funds under this section may use not more than 3 percent of such funds for local administrative costs.

''(g) APPLICATION.—Each local educational agency that desires to receive funds under this section shall include in the application required under section 6303 a description of the agency's program to reduce class size by hiring additional highly qualified teachers.

''(h) NO USE OF FUNDS FOR PAYMENTS TO CERTAIN TEACHERS.—No funds under this section may be used to pay the salary of any teacher hired with funds under section 307 of the Department of Education Appropriations Act, 1999, unless, by the start of the 2001–2002 school year, the teacher is certified within the State (which may include certification through State or local alternative routes) and demonstrates competency in the subject areas in which he or she teaches.

''(i) NOTIFICATION.—Not later than 30 days after the date of the enactment of this section, the Secretary shall provide specific notification to each local educational agency eligible to receive funds under this part regarding the flexibility provided under subsection (c)(2)(B)(ii) and the ability to use such funds to carry out activities described in subsection (c)(2)(A)(iii).

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

''(1) $2,317,507,723 for fiscal year 2002;

''(2) $3,012,015,447 for fiscal year 2003;

''(3) $3,706,523,170 for fiscal year 2004; and

''(4) $4,401,030,983 for fiscal year 2005.''.

SEC. 342. READING EXCELLENCE.

Part C of title II (20 U.S.C. 6661 et seq.) is amended—

(1) by inserting after the part heading the following:

''SEC. 2250. SHORT TITLE.

''This part may be cited as the 'Reading Excellence Act'.'';

(2) in section 2253(a) (20 U.S.C. 6661b(a)) by adding at the end the following:

''(3) AMOUNT OF GRANTS.—From the amount appropriated for each fiscal year under section 2260(a), the Secretary shall award to each State educational agency a grant under this part in an amount that is in proportion to the amount the State received under part A of title I for the previous fiscal year.'';

(3) in section 2255 (20 U.S.C. 6661d) by adding at the end the following:

''(f) OTHER USES.—With respect to a State educational agency that has used amounts received under a grant under section 2253 in a previous fiscal year to sufficiently serve schools described in subsection (a)(1), such State agency may use amounts received under such a grant in succeeding fiscal years to provide subgrants to local educational agencies to assist other schools that may receive assistance under title I.''; and

(4) in section 2260(a) (20 U.S.C. 6661i(a)) by adding at the end the following:

''(3) OTHER FISCAL YEARS.—There are authorized to be appropriated to carry out this part and section 1202(c)—

''(A) $500,000,000 for fiscal year 2002;

''(B) $600,000,000 for fiscal year 2003;

''(C) $700,000,000 for fiscal year 2004;

''(D) $850,000,000 for fiscal year 2005; and

''(E) $1,000,000,000 for fiscal year 2006.''.

SEC. 343. TUTORIAL ASSISTANCE GRANTS.

(a) IN GENERAL.—Section 2256 (20 U.S.C. 6661e) is repealed.

(b) CONFORMING AMENDMENTS.—Part C of title II (20 U.S.C. 6661 et seq.) is amended—

(1) in section 2253 (20 U.S.C. 6661b)—

(A) in subsection (a)(1), by striking ''sections 2254 through 2256'' and inserting ''sections 2254 and 2255''; and

(B) in subsection (b)(2)—

(i) in subparagraph (A)(ii), by striking ''sections 2255 and 2256'' and inserting ''section 2255'';

(ii) in subparagraph (B)—

(I) in clause (ii), by striking ''section 2255 and 2256'' and inserting ''section 2255''; and

(II) in clause (vi), , by striking ''sections 2255 and 2256'' and inserting ''section 2255''; and

(iii) in subparagraph (E)(iii)—

(I) by striking ''sections 2255(a)(1) and 2256(a)(1)'' and inserting ''section 2255(a)(1)''; and

(II) by striking ''sections 2255 and 2256'' and inserting ''section 2255'';

(2) in section 2254 (20 U.S.C. 6661c)—

(A) in paragraph (1)—

(i) by striking ''(excluding section 2256)''; and

(ii) by striking ''; and'' and inserting a period;

(B) by striking ''2253—'' and all that follows through ''shall use'' in paragraph (1) and inserting ''2253 shall use''; and

(C) by striking in paragraph (2); and

(3) in section 2258(a) (20 U.S.C. 6661h(a)), by striking ''or 2256''.

CHAPTER 5—INTEGRATION OF TECHNOLOGY INTO THE CLASSROOM

SEC. 351. SHORT TITLE.

This chapter may be cited as the ''Training for Technology Act of 2001''.

SEC. 352. LOCAL APPLICATIONS FOR SCHOOL TECHNOLOGY RESOURCE GRANTS.

Section 3135 (20 U.S.C. 6845) is amended—

(1) in the first sentence, by inserting ''(a) IN GENERAL.—'' before ''Each local educational agency'';

(2) in subsection (a) (as so redesignated)—

(A) in paragraph (3)(B), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (4) the following:

''(5) demonstrate the manner in which the local educational agency will utilize at least 30 percent of the amounts provided to the agency under this subpart in each fiscal year to provide for in-service teacher training, or that the agency is using at least 30 percent of its total technology funding available to the agency from all sources (including Federal, State, and local sources) to provide in-service teacher training.'';

(3) by redesignating subsections (d) and (e) as subsections (b) and (c) respectively; and

(4) in subsection (c) (as so redesignated), by striking ''subsection (e)'' and inserting ''subsection (a)''.

SEC. 353. TEACHER PREPARATION.

Part A of title III (20 U.S.C. 6811 et seq.) is amended by adding at the end the following:

''Subpart 5—Preparing Tomorrow's Teachers To Use Technology

''SEC. 3161. PURPOSE; PROGRAM AUTHORITY.

''(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards.

''(b) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist them in developing or redesigning teacher preparation programs to enable prospective teachers to use technology effectively in their classrooms.

''(2) PERIOD OF AWARD.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years.

"SEC. 3162. ELIGIBILITY.

''(a) ELIGIBLE APPLICANTS.—In order to receive an award under this subpart, an applicant shall be a consortium that includes—

''(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;

''(2) at least 1 State educational agency or local educational agency; and

''(3) 1 or more of the following entities:

''(A) an institution of higher education (other than the institution described in paragraph (1));

''(B) a school or department of education at an institution of higher education;

''(C) a school or college of arts and sciences at an institution of higher education;

''(D) a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.

''(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—

''(1) a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards;

''(2) a demonstration of—

''(A) the commitment, including the financial commitment, of each of the members of the consortium; and

''(B) the active support of the leadership of each member of the consortium for the proposed project;

''(3) a description of how each member of the consortium would be included in project activities;

''(4) a description of how the proposed project would be continued once the Federal funds awarded under this subpart end; and

''(5) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

''(c) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

''(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be in cash.

"SEC. 3163. USE OF FUNDS.

''(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

''(1) creating programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards; and

''(2) evaluating the effectiveness of the project.

''(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

''(1) developing and implementing high-quality teacher preparation programs that enable educators to—

''(A) learn the full range of resources that can be accessed through the use of technology;

''(B) integrate a variety of technologies into the classroom in order to expand students' knowledge;

''(C) evaluate educational technologies and their potential for use in instruction; and

''(D) help students develop their own technical skills and digital learning environments;

''(2) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;

''(3) developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms;

''(4) providing technical assistance to other teacher preparation programs;

''(5) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and

''(6) subject to section 3162(c)(2), acquiring equipment, networking capabilities, and infrastructure to carry out the project.

"SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.

''For purposes of carrying out this subpart, there is authorized to be appropriated $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 354. PROFESSIONAL DEVELOPMENT.

Section 3141(b)(2)(A) (20 U.S.C. 6861(b)(2)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii)(V), by adding ''and'' after the semicolon; and

(2) by adding at the end the following:

''(iii) the provision of incentives, including bonus payments, to recognized educators who achieve the National Education Technology Standards, or an information technology certification that is directly related to the curriculum or content area in which the teacher provides instruction;''.

TITLE IV—INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 401. FULL FUNDING OF IDEA.

(a) FULL FUNDING.—In additional to any amounts otherwise appropriated, there are appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), $2,000,000,000 for fiscal year 2002.

(b) SENSE OF THE SENATE.—

(1) FINDINGS.—The Senate makes the following findings:

(A) Before the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (referred to in this subsection as ''IDEA'') was enacted in 1975, as many as 4,000,000 children were denied appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.

(B) States asked the Federal Government to help them fund educational services to disabled children. Congress responded by enacting IDEA to ensure that disabled children received appropriate services and to provide financial support to the States for providing these services.

(C) Since the enactment of IDEA, schools have been serving disabled children, helping them develop their skills and abilities and go on to lead productive and independent lives. Today, IDEA serves 5,400,000 children with disabilities from birth through age 21. Every State offers public education and early intervention services for children with disabilities. Fewer than 6,000 disabled children now live in institutional settings away from their families, compared to 95,000 such children in 1969. The number of disabled students completing high school with a diploma or certificate has increased by 10 percent in the last decade. The number of students with disabilities entering higher education has more than tripled since the implementation of IDEA.

(D) When IDEA was enacted, the legislation included a goal to provide 40 percent of the cost of providing services for these students.

(E) The cost of providing special education has increased significantly for school districts across the country. The Federal Government currently provides about 15 percent of the national average per pupil expenditure for IDEA students.

(F) IDEA will be up for reauthorization for fiscal year 2003.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that—

(A) when Congress reauthorizes the IDEA program, it should ensure that the Federal Government will reach the goal of providing 40 percent of the national average per pupil expenditure under IDEA; and

(B) disabled children will benefit from efforts to help schools hire and train high quality teachers and principals, reduce class size, renovate overcrowded and crumbling buildings, integrate technology into the classroom, strengthen early literacy programs, and increase the availability of after-school learning opportunities.

TITLE V—MAKING HIGHER EDUCATION MORE AFFORDABLE

SEC. 501. INCREASE IN MAXIMUM PELL GRANT.

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

(1) A college education has become increasingly important, not just to the individual beneficiary, but to the nation as a whole. The growth and continued expansion of the nation's economy is heavily dependent on an educated and highly skilled workforce.

(2) The opportunity to gain a college education also is important to the nation as a means to help advance the American ideals of progress and equality.

(3) The Federal Government plays an invaluable role in making student financial aid available to ensure that qualified students are able to attend college, regardless of their financial means. Since the inception of the Pell Grant program in 1973, nearly 80,000,000 grants have helped low- and middle-income students go to college, enrich their lives, and become productive members of society.

(4) Nationwide, almost 70 percent of high school graduates continue on to higher education. This degree of college participation would not exist without the Federal investment in student aid, especially the Pell Grant program. Nearly 25 percent of low- and middle-income students receive some amount of Pell Grant funding.

(5) In the next 10 years, the number of undergraduate students enrolled in the nation's colleges and universities will increase by 11 percent to more than 11,000,000 students. Many of these students will be the first in their families to attend college. One in 5 of these students will be from families with incomes below the poverty level. The continued investment in the Pell Grant program is essential if college is to remain an achievable part of the American dream.

(6) Increasing the maximum Pell Grant to $4,700 would allow approximately 430,000 additional students to benefit from the program.

(7) Increasing the maximum Pell Grant to $4,700 would result in an $800 increase in the average grant award.

(8) Because Pell Grant recipients are more likely to graduate with student loan debt and to amass more debt than other student borrowers, increasing the maximum Pell Grant to $4,700 by fiscal year 2004 will help remedy this disparity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate the maximum Pell Grant should be increased to $4,700.

SEC. 502. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

"SEC. 222. HIGHER EDUCATION EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount of the qualified higher education expenses paid by the taxpayer during the taxable year.

''(2) APPLICABLE DOLLAR AMOUNT.—The applicable dollar amount for any taxable year shall be determined as follows:

''Taxable year:	Applicable dollar amount:
2002	$4,000
2003	$8,000
2004 and thereafter	$12,000.

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $62,450 ($104,050 in the case of a joint return, $89,150 in the case of a return filed by a head of household, and $52,025 in the case of a return by a married individual filing separately), bears to

''(B) $15,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after the application of sections 86, 135, 219, 220, and 469.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse,

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

''(iv) any grandchild of the taxpayer,

as an eligible student at an institution of higher education.

''(B) ELIGIBLE COURSES.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

''(i) are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

''(ii) are not attributable to any graduate program of such individual.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

''(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

''(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

''(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) is eligible to participate in programs under title IV of such Act.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expense under such other provision.

''(B) DENIAL OF DEDUCTION IF CREDIT ELECTED.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the taxpayer elects to have section 25A apply with respect to such individual for such year.

''(C) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(D) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 or 530(d)(2) for the taxable year.

''(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

''(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

''(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

''(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

''(A) a qualified scholarship which under section 117 is not includable in gross income,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

''(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following:

''(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by section 222.''.

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 222 and inserting the following:

''Sec. 222. Higher education expenses.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. DORGAN, Mr. REID, Mr. DURBIN, Mr. ROCKFELLER, Mrs. CLINTON, Mr. KERRY, Mr. SCHUMER, Mr. DODD, and Mr. CONRAD):

S. 9. A bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes; to the Committee on Finance.

WORKING FAMILY TAX RELIEF ACT OF 2001

Mr. DASCHLE. 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. 9

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Working Family Tax Relief Act of 2001''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

TITLE I—MARRIAGE PENALTY TAX RELIEF

SEC. 101. OPTIONAL SEPARATE CALCULATIONS.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

''SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

''(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

''(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

''(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

''(b) TREATMENT OF INCOME.—For purposes of this section—

''(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services,

''(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property (equally in the case of property held jointly by the spouses), and

''(3) any exclusion from income shall be allowable to the spouse with respect to whom the income would be otherwise includible.

''(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

''(1) except as otherwise provided in this subsection, the deductions described in section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

''(2) the deductions allowable by section 151(b) (relating to personal exemptions for taxpayer and spouse) shall be determined by allocating 1 personal exemption to each spouse,

''(3) section 63 shall be applied as if such spouses were not married, except that the election whether or not to itemize deductions shall be made jointly by both spouses and apply to each, and

''(4) each spouse's share of all other deductions shall be determined by multiplying the aggregate amount thereof by the fraction—

''(A) the numerator of which is such spouse's gross income, and

''(B) the denominator of which is the combined gross incomes of the 2 spouses.

Any fraction determined under paragraph (4) shall be rounded to the nearest percentage point.

''(d) TREATMENT OF CREDITS.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), each spouse's share of credits allowed to both spouses shall be determined by multiplying the aggregate amount of the credits by the fraction determined under subsection (c)(4).

''(2) EARNED INCOME CREDIT.—The earned income credit under section 32 shall be determined as if each spouse were a separate taxpayer, except that—

''(A) the earned income and the modified adjusted gross income of each spouse shall be determined under the rules of subsections (b), (c), and (e), and

''(B) qualifying children shall be allocated between spouses proportionate to the earned income of each spouse (rounded to the nearest whole number).

''(e) SPECIAL RULES REGARDING INCOME LIMITATIONS.—

''(1) EXCLUSIONS AND DEDUCTIONS.—For purposes of making a determination under subsection (b) or (c), any eligibility limitation with respect to each spouse shall be determined by taking into account the limitation applicable to a single individual.

''(2) CREDITS.—For purposes of making a determination under subsection (d)(1), in no event shall an eligibility limitation for any credit allowable to both spouses be less than twice such limitation applicable to a single individual.

''(f) SPECIAL RULES FOR ALTERNATIVE MINIMUM TAX.—If a husband and wife elect the application of this section—

''(1) the tax imposed by section 55 shall be computed separately for each spouse, and

''(2) for purposes of applying section 55—

''(A) the rules under this section for allocating items of income, deduction, and credit shall apply, and

''(B) the exemption amount for each spouse shall be the amount determined under section 55(d)(1)(B).

''(g) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

''(h) LIMITATIONS.—

''(1) PHASE-IN OF BENEFIT.—

''(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 2005, the tax imposed by section 1 or 55 shall in no event be less than the sum of—

''(i) the tax determined after the application of this section, plus

''(ii) the applicable percentage of the excess of—

''(I) the tax determined without the application of this section, over

''(II) the amount determined under clause (i).

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in:	**The applicable percentage is:**
2003	50
2004	10.

''(2) LIMITATION OF BENEFIT BASED ON COMBINED ADJUSTED GROSS INCOME.—With respect to spouses electing the treatment of this section for any taxable year, the tax under section 1 or 55 shall be increased by an amount which bears the same ratio to the excess of the tax determined without the application of this section over the tax determined after the application of this section as the ratio (but not over 100 percent) of the excess of the combined adjusted gross income of the spouses over $100,000 bears to $50,000.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.''.

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 as precedes the table is amended to read as follows:

''(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a return which is not a combined return under section 6013A, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:''.

(c) PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF INCOME FROM PROPERTY.—Section 6662 (relating to imposition of accuracy-related penalty) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

''(6) Any substantial understatement of income from property under section 6013A.'', and

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

''(i) SUBSTANTIAL UNDERSTATEMENT OF INCOME FROM PROPERTY UNDER SECTION 6013A.—For purposes of this section, there is

a substantial understatement of income from property under section 6013A if—

''(1) the spouses electing the treatment of such section for any taxable year transfer property from 1 spouse to the other spouse in such year,

''(2) such transfer results in reduced tax liability under such section, and

''(3) the significant purpose of such transfer is the avoidance or evasion of Federal income tax.''.

(d) PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.—

(1) IN GENERAL.—Nothing in this section shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(2) TRANSFERS.—

(A) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this section has on the income and balances of the trust funds established under sections 201 and 1817 of the Social Security Act (42 U.S.C. 401 and 1395i).

(B) TRANSFER OF FUNDS.—If, under subparagraph (A), the Secretary of the Treasury estimates that the enactment of this section has a negative impact on the income and balances of such trust funds, the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this section.

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6013 the following new item:

''Sec. 6013A. Combined return with separate rates.''.

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

TITLE II—ESTATE TAX RELIEF

SEC. 201. INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.

(a) IN GENERAL.—The table contained in section 2010(c) (relating to applicable credit amount) is amended to read as follows:

''In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
2002, 2003, 2004, 2005, and 2006	$1,000,000
2007 and 2008	$1,125,000
2009	$1,500,000
2010 or thereafter	$2,000,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

SEC. 202. INCREASE IN QUALIFIED FAMILY-OWNED BUSINESS INTEREST DEDUCTION AMOUNT.

(a) IN GENERAL.—Paragraph (2) of section 2057(a) (relating to family-owned business interests) is amended to read as follows:

''(2) MAXIMUM DEDUCTION.—

''(A) IN GENERAL.—The deduction allowed by this section shall not exceed the sum of—

''(i) the applicable deduction amount, plus

''(ii) in the case of a decedent described in subparagraph (C), the applicable unused spousal deduction amount.

''(B) APPLICABLE DEDUCTION AMOUNT.—For purposes of this subparagraph (A)(i), the applicable deduction amount is determined in accordance with the following table:

''In the case of estates of decedents dying during:	The applicable deduction amount is:
2002, 2003, 2004, 2005, and 2006	$1,375,000
2007 and 2008	$1,625,000
2009	$2,375,000
2010 or thereafter	$3,375,000.

''(C) APPLICABLE UNUSED SPOUSAL DEDUCTION AMOUNT.—With respect to a decedent whose immediately predeceased spouse died after December 31, 2001, and the estate of such immediately predeceased spouse met the requirements of subsection (b)(1), the applicable unused spousal deduction amount for such decedent is equal to the excess of—

''(i) the applicable deduction amount allowable under this section to the estate of such immediately predeceased spouse, over

''(ii) the sum of—

''(I) the applicable deduction amount allowed under this section to the estate of such immediately predeceased spouse, plus

''(II) the amount of any increase in such estate's unified credit under paragraph (3)(B) which was allowed to such estate.''.

(b) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) is amended—

(1) by striking ''$675,000'' both places it appears and inserting ''the applicable deduction amount'', and

(2) by striking ''$675,000'' in the heading and inserting ''APPLICABLE DEDUCTION AMOUNT''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

SEC. 301. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. HIGHER EDUCATION EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount of the qualified higher education expenses paid by the taxpayer during the taxable year.

''(2) APPLICABLE DOLLAR AMOUNT.—The applicable dollar amount for any taxable year shall be determined as follows:

''Taxable year:	Applicable dollar amount:
2002	$4,000
2003	$8,000
2004 and thereafter	$12,000.

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $62,450 ($104,050 in the case of a joint return, $89,150 in the case of a return filed by a head of household, and $52,025 in the case of a return by a married individual filing separately), bears to

''(B) $15,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after the application of sections 86, 135, 219, 220, and 469.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse,

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

''(iv) any grandchild of the taxpayer,

as an eligible student at an institution of higher education.

''(B) ELIGIBLE COURSES.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

''(i) are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

''(ii) are not attributable to any graduate program of such individual.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

''(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

''(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

''(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) is eligible to participate in programs under title IV of such Act.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expense under such other provision.

''(B) DENIAL OF DEDUCTION IF CREDIT ELECTED.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the taxpayer elects to have section 25A apply with respect to such individual for such year.

''(C) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(D) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 or 530(d)(2) for the taxable year.

''(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

''(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

''(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

''(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

''(A) a qualified scholarship which under section 117 is not includable in gross income,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

''(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (17) the following new paragraph:

''(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by section 222.''.

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Higher education expenses.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

TITLE IV—TAX RELIEF FOR FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) (defining applicable percentage) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000, and

''(B) in the case of employment-related expenses described in subsection (e)(11), 50 percent reduced (but not below zero) by 1 percentage point for each $800, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.''.

(b) INFLATION ADJUSTMENT FOR ALLOWABLE EXPENSES.—Section 21(c) (relating to dollar limit on amount creditable) is amended by striking ''The amount determined'' and inserting ''In the case of any taxable year beginning after 2002, each dollar amount referred to in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) IN GENERAL.—Section 21(e) (relating to special rules) is amended by adding at the end the following new paragraph:

''(11) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 1 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the sum of—

''(A) $90 for each month in such taxable year during which at least one of such qualifying individuals is under the age of 1, and

''(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 403. CREDIT MADE REFUNDABLE.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

''SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

''(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

''(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

''(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

''(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

''(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

''(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

''(5) states the number of qualifying individuals in the household maintained by the employee, and

''(6) estimates the amount of employment-related expenses for the calendar year.

''(c) DEPENDENT CARE ADVANCE AMOUNT.—

''(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

''(A) on the basis of the employee's wages from the employer for such period,

''(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

''(C) in accordance with tables provided by the Secretary.

''(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

''(e) DEFINITIONS.—For purposes of this section, terms used in this section which are defined in section 35 shall have the respective meanings given such terms by section 35.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 35(a)(1), as redesignated by subsection (a)(1), is amended by striking ''chapter'' and inserting ''subtitle''.

(2) Section 35(e), as so redesignated and amended by section 402(a), is amended by adding at the end the following new paragraph:

''(12) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.''.

(3) Sections 23(f)(1) and 129(a)(2)(C) are each amended by striking ''section 21(e)'' and inserting ''section 35(e)''.

(4) Section 129(b)(2) is amended by striking ''section 21(d)(2)'' and inserting ''section 35(d)(2)''.

(5) Section 129(e)(1) is amended by striking ''section 21(b)(2)'' and inserting ''section 35(b)(2)''.

(6) Section 213(e) is amended by striking ''section 21'' and inserting ''section 35''.

(7) Section 995(f)(2)(C) is amended by striking ''and 34'' and inserting ''34, and 35''.

(8) Section 6211(b)(4)(A) is amended by striking ''and 34'' and inserting '', 34, and 35''.

(9) Section 6213(g)(2)(H) is amended by striking ''section 21'' and inserting ''section 35''.

(10) Section 6213(g)(2)(L) is amended by striking ''section 21, 24, or 32'' and inserting ''section 24, 32, or 35''.

(11) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

''Sec. 36. Overpayments of tax.''.

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 is amended by adding after the item relating to section 3507 the following new item:

''Sec. 3507A. Advance payment of dependent care credit.''.

(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or'' before ''enacted'' and by inserting before the period at the end '', or from section 35 of such Code''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) 25 percent of the qualified child care expenditures, and

''(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(i) to acquire, construct, rehabilitate, or expand property—

''(I) which is to be used as part of a qualified child care facility of the taxpayer,

''(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

''(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

''(I) day care and before and after school care,

''(II) transportation associated with such care, and

''(III) before and after school and holiday programs including educational and recreational programs and camp programs.

''(B) FAIR MARKET VALUE.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following new paragraph:

''(14) the employer-provided child care credit determined under section 45E.''.

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(10) NO CARRYBACK OF EMPLOYER-PROVIDED CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back

to a taxable year ending before January 1, 2002.''.

(3) Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting '', and'', and by adding at the end the following new paragraph:

''(10) the employer-provided child care credit determined under section 45E(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45E. Employer-provided child care credit.''.

(5) Section 1016(a) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following new paragraph:

''(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS

SEC. 501. LONG-TERM CARE TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) $500 multiplied by the number of qualifying children of the taxpayer, plus

''(2) $3,000 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.''.

(2) ADDITIONAL CREDIT FOR TAXPAYER WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much of section 24(d) as precedes paragraph (1)(A) thereof is amended to read as follows:

''(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—

''(1) IN GENERAL.—If the sum of the number of qualifying children of the taxpayer and the number of applicable individuals with respect to which the taxpayer is an eligible caregiver is 3 or more for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—''.

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 32(n) is amended by striking ''CHILD'' and inserting ''FAMILY CARE''.

(B) The heading for section 24 is amended to read as follows:

''SEC. 24. FAMILY CARE CREDIT.''.

(C) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 24 and inserting the following new item:

''Sec. 24. Family care credit.''.

(b) DEFINITIONS.—Section 24(c) (defining qualifying child) is amended to read as follows:

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means any individual if—

''(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(2) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 6 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

''(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

''(3) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).''.

(c) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(e) is amended by adding at the end the following new sentence: ''No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.''.

(2) ASSESSMENT.—Section 6213(g)(2)(I) is amended—

(A) by inserting ''or physician identification'' after ''correct TIN'', and

(B) by striking ''child'' and inserting ''family care''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VI—TAX RELIEF FOR WORKING FAMILIES

SEC. 601. INCREASED EARNED INCOME TAX CREDIT FOR 2 OR MORE QUALIFYING CHILDREN.

(a) IN GENERAL.—The table in section 32(b)(1)(A) (relating to percentages) is amended—

(1) in the second item—

(A) by striking ''or more'', and

(B) by striking ''21.06'' and inserting ''19.06'', and

(2) by inserting after the second item the following new item:

''3 or more qualifying children	45	19.06''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 602. SIMPLIFICATION OF DEFINITION OF EARNED INCOME.

(a) IN GENERAL.—Section 32(c)(2)(A)(i) (defining earned income) is amended by inserting '', but only if such amounts are includible in gross income for the taxable year'' after ''other employee compensation''.

(b) CONFORMING AMENDMENT.—Section 32(c)(2)(B) is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) the requirement under subparagraph (A)(i) that an amount be includible in gross income shall not apply if such amount is exempt from tax under section 7873 or is derived directly from restricted and allotted land under the Act of February 8, 1887 (commonly known as the Indian General Allotment Act) (25 U.S.C. 331 et seq.) or from land held under Acts or treaties containing an exception provision similar to the Indian General Allotment Act.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2001.

SEC. 603. SIMPLIFICATION OF DEFINITION OF CHILD DEPENDENT.

(a) REMOVAL OF SUPPORT TEST FOR CERTAIN INDIVIDUALS.—Section 152(a) (relating to definition of dependent) is amended to read as follows:

''(a) GENERAL DEFINITION.—For purposes of this subtitle—

''(1) DEPENDENT.—The term 'dependent' means—

''(A) any individual described in paragraph (2) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) as received from the taxpayer), or

''(B) any individual described in subsection (f).

''(2) INDIVIDUALS.—An individual is described in this paragraph if such individual is—

''(A) a brother, sister, stepbrother, or stepsister of the taxpayer,

''(B) the father or mother of the taxpayer, or an ancestor of either,

''(C) a stepfather or stepmother of the taxpayer,

''(D) a son or daughter of a brother or sister of the taxpayer,

''(E) a brother or sister of the father or mother of the taxpayer,

''(F) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer, or

''(G) an individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as their principal place of abode the home of the taxpayer and is a member of the taxpayer's household.''.

(b) OTHER MODIFICATIONS.—Section 152 is amended by adding at the end the following new subsection:

''(f) SUBSECTION (f) DEPENDENTS.—

''(1) IN GENERAL.—An individual is described in this subsection for the taxable year if such individual—

''(A) bears a relationship to the taxpayer described in paragraph (2),

''(B) except in the case of an eligible foster child or as provided in subsection (e), has the same principal place of abode as the taxpayer for more than one-half of such taxable year, and

''(C)(i) has not attained the age of 19 at the close of the calendar year in which the taxable year begins, or

''(ii) is a student (within the meaning of section 151(c)(4)) who has not attained the age of 24 at the close of such calendar year.

''(2) RELATIONSHIP TEST.—An individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a son or daughter of the taxpayer, or a descendant of either, or

''(B) a stepson or stepdaughter of the taxpayer.

''(3) SPECIAL RULES.—

''(A) 2 OR MORE CLAIMING DEPENDENT.—Except as provided in subparagraph (B), if an individual may be claimed as a dependent by 2 or more taxpayers (but for this subparagraph) for a taxable year beginning in the same calendar year, only the taxpayer with the highest adjusted gross income for such taxable year shall be allowed the deduction with respect to such individual.

''(B) RELEASE OF CLAIM TO EXEMPTION.—Subparagraph (A) shall not apply with respect to an individual if—

''(i) the taxpayer with the highest adjusted gross income under subparagraph (A), for any calendar year signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such taxpayer will not claim such individual as a dependent for any taxable year beginning in such calendar year,

''(ii) the other taxpayer provides over half of such individual's support for the calendar year in which the taxable year of such other taxpayer begins, and

''(iii) such other taxpayer attaches such written declaration to such taxpayer's return for the taxable year beginning during such calendar year.''.

(c) RULES RELATING TO FOSTER CHILD.—Section 152(b)(2) (relating to rules relating to general definition) is amended by striking ''a foster child'' and all that follows through ''individual)'' and inserting ''an eligible foster child (as defined in section 32(c)(3)(B)(iii)) of an individual''.

(d) EXEMPTION FROM GROSS INCOME TEST.—Section 151(c)(3) (relating to definition of child) is amended by striking ''or stepdaughter'' and inserting ''stepdaughter, or a descendant of such individual''.

(e) WAIVER OF DEDUCTION FOR DIVORCED PARENTS.—

(1) IN GENERAL.—So much of section 152(e) as precedes paragraph (4) (relating to support test in case of child of divorced parents, etc.) is amended to read as follows:

''(e) SPECIAL RULES FOR CHILD OF DIVORCED PARENTS.—

''(1) RELEASE OF CLAIM TO EXEMPTION.—In the case of a child (as defined in section 151(c)(3)) of parents—

''(A) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(B) who are separated under a written separation agreement, or

''(C) who live apart at all times during the last 6 months of the calendar year,

the custodial parent who is entitled to the deduction under section 151 for a taxable year with respect to such child may release such deduction to the noncustodial parent.

''(2) PROCEDURE.—The noncustodial parent may claim a child described in paragraph (1) as a dependent for the taxable year if—

''(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year,

''(B) the custodial parent and the noncustodial parent provide over half of such child's support for the calendar year in which the taxable years of such parents begin, and

''(C) the noncustodial parent attaches such written declaration to such noncustodial parent's return for the taxable year beginning during such calendar year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means, with regard to an individual, a parent who has custody of such individual for a greater portion of the calendar year than the noncustodial parent.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.''.

(2) PRE-1985 INSTRUMENTS.—Section 152(e)(4)(A) is amended by striking ''A child'' and all that follows through ''noncustodial parent'' and inserting ''A noncustodial parent described in paragraph (1) shall be entitled to the deduction under section 151 for a taxable year with respect to a child if''.

(f) CONFORMING AMENDMENTS.—

(1) Section 1(g)(5)(A) is amended by inserting ''as in effect on the day before the date of the enactment of the Working Family Tax Relief Act of 2001'' after ''152(e)''.

(2) Section 2(b)(1)(A)(i) is amended by striking ''paragraph (2) or (4) of''.

(3) Section 2(b)(3)(B)(i) is amended by striking ''paragraph (9)'' and inserting ''paragraph (2)(G)''.

(4) Section 21(e)(5)(A) is amended by striking ''paragraph (2) or (4) of''.

(5) Section 21(e)(5) is amended in the matter following subclause (B) by inserting ''as in effect on the day before the date of the enactment of the Working Family Tax Relief Act of 2001'' after ''152(e)(1)''.

(6) Section 32(c)(1)(G) is amended by striking ''(3)(D).'' and inserting ''(1)(C). An individual whose qualifying child or qualifying children are not taken into account under subsection (b) solely by reason of paragraph (3)(D) shall be treated as an eligible individual if such individual otherwise meets the requirements of subparagraph (A)(ii).''.

(7) Section 32(c)(3)(B)(ii) is amended by striking ''paragraph (2) or (4) of''.

(8) Section 51(i)(1)(C) is amended by striking ''152(a)(9)'' and inserting ''152(a)(2)(G)''.

(9) Section 152(b) is amended by striking ''specified in subsection (a)'' and inserting ''specified in subsection (a)(2) or (f)(2)''.

(10) Section 152(c) is amended by striking ''(a)'' and inserting ''(a)(1)''.

(11) Section 7703(b)(1) is amended by striking ''paragraph (2) or (4) of''.

(12) The following provisions of are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (F) of subsection (a)(2) or subsection (f)(2) of section 152'':

(A) Section 170(g)(3).

(B) Subparagraphs (A) and (B) of section 51(i)(1).

(C) The second sentence of section 213(d)(11).

(D) Section 529(e)(2)(B).

(E) Section 7702B(f)(2)(C)(iii).

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 604. OTHER MODIFICATIONS TO EARNED INCOME TAX CREDIT.

(a) MODIFICATION OF JOINT RETURN REQUIREMENT.—Subsection (d) of section 32 is amended to read as follows:

''(d) MARRIED INDIVIDUALS.—

''(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

''(2) MARITAL STATUS.—For purposes of paragraph (1), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(3) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of paragraph (1), if—

''(A) an individual —

''(i) is married and files a separate return, and

''(ii) has a qualifying child who is a son, daughter, stepson, or stepdaughter of such individual, and

''(B) during the last 6 months of such taxable year, such individual and such individual's spouse do not have the same principal place of abode,

such individual shall not be considered as married.''.

(b) MODIFICATION OF RULE WHERE THERE ARE 2 OR MORE ELIGIBLE INDIVIDUALS.—Subparagraph (C) of section 32(c)(1) is amended to read as follows:

''(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—

''(i) IN GENERAL.—Except as provided in clause (ii), if 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest modified adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

''(ii) EXCEPTION FOR CERTAIN PARENTS.—An otherwise eligible individual who is not treated under clause (i) as the only eligible individual with respect to any qualifying child shall be treated as an eligible individual with respect to such child if—

''(I) such child is the son, daughter, stepson, or stepdaughter of such individual,

''(II) such child is not taken into account under subsection (b) by any other individual, and

''(III) the limitation under subsection (a)(2) for the individual who would (but for this clause) be treated under clause (i) as the only eligible individual with respect to such child would be greater than zero (determined as if such individual had 2 qualifying children).''.

(c) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—Paragraph (2) of section 6213(g) is amended by striking ''and'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', and'', and by inserting after subparagraph (L) the following new subparagraph:

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

SEC. 701. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

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

TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

SEC. 801. NONREFUNDABLE CREDIT TO CERTAIN INDIVIDUALS FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 302(a), is amended by inserting after section 25B the following new section:

''SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed $2,000.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage is the percentage determined in accordance with the following table:

Adjusted Gross Income						Applicable percentage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
$0	$35,000	$0	$26,250	$0	$17,500	50
35,000	40,000	26,250	30,000	17,500	20,000	40
40,000	45,000	30,000	33,750	20,000	22,500	30
45,000	50,000	33,750	37,500	22,500	25,000	15

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible individual' means any individual if such individual has attained the age of 18 as of the close of the taxable year.

''(2) DEPENDENTS AND FULL-TIME STUDENTS NOT ELIGIBLE.—The term 'eligible individual' shall not include—

''(A) any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, and

''(B) any individual who is a student (as defined in section 151(c)(4)).

''(d) QUALIFIED RETIREMENT SAVINGS CONTRIBUTIONS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified retirement savings contributions' means, with respect to any taxable year, the sum of—

''(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

''(B) the amount of—

''(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

''(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)).

''(2) REDUCTION FOR CERTAIN DISTRIBUTIONS.—

''(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the sum of—

''(i) any distribution from a qualified retirement plan (as defined in section 4974(c)), or from an eligible deferred compensation plan (as defined in section 457(b)), received by the individual during the testing period which is includible in gross income, and

''(ii) any distribution from a Roth IRA received by the individual during the testing period which is not a qualified rollover contribution (as defined in section 408A(e)) to a Roth IRA.

''(B) TESTING PERIOD.—For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

''(i) such taxable year,

''(ii) the 2 preceding taxable years, and

''(iii) the period after such taxable year and before the due date (including extensions) for filing the return of tax for such taxable year.

''(C) EXCEPTED DISTRIBUTIONS.—There shall not be taken into account under subparagraph (A)—

''(i) any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4), and

''(ii) any distribution to which section 408A(d)(3) applies.

''(D) TREATMENT OF DISTRIBUTIONS RECEIVED BY SPOUSE OF INDIVIDUAL.—For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution.

''(e) ADJUSTED GROSS INCOME.—For purposes of this section, adjusted gross income shall be determined without regard to sections 911, 931, and 933.

''(f) INVESTMENT IN THE CONTRACT.—Notwithstanding any other provision of law, a qualified retirement savings contribution shall not fail to be included in determining the investment in the contract for purposes of section 72 by reason of the credit under this section.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 26 is amended by inserting ''(other than the credit allowed by section 25C)'' after ''credits allowed by this subpart''.

(2) CONFORMING AMENDMENT.—Section 25C, as added by subsection (a), is amended by inserting after subsection (f) the following new subsection:

''(g) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by this section for the taxable year shall not exceed the sum of—

''(1) the taxpayer's regular tax liability for the taxable year reduced by the sum of the credits allowed by sections 21, 22, 23, 24, 25, 25A, and 25B, plus

''(2) the tax imposed by section 55 for such taxable year.''.

(c) ANNUAL REPORT.—The Comptroller General of the United States shall submit a report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the number of taxpayers receiving the credit allowed under section 25C of the Internal Revenue Code of 1986, as added by subsection (a).

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 302(b), is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Elective deferrals and IRA contributions by certain individuals.''.

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 802. CREDIT FOR QUALIFIED PENSION PLAN CONTRIBUTIONS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 411(a), is amended by adding at the end the following new section:

''SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for subsection (f)(1)) be allowed as a deduction under section 404 for such taxable year for qualified employer contributions made to any qualified retirement plan on behalf of any employee who is not a highly compensated employee.

''(b) CREDIT LIMITED TO 3 YEARS.—The credit allowable by this section shall be allowed only with respect to the period of 3 taxable years beginning with the first taxable year for which a credit is allowable with respect to a plan under this section.

''(c) QUALIFIED EMPLOYER CONTRIBUTION.—For purposes of this section—

''(1) DEFINED CONTRIBUTION PLANS.—In the case of a defined contribution plan, the term 'qualified employer contribution' means the amount of nonelective and matching contributions to the plan made by the employer on behalf of any employee who is not a highly compensated employee to the extent such amount does not exceed 3 percent of such employee's compensation from the employer for the year.

''(2) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the term 'qualified employer contribution' means the amount of employer contributions to the plan made on behalf of any employee who is not a highly compensated employee to the extent that the accrued benefit of such employee derived from employer contributions for the year does not exceed the equivalent (as determined under regulations prescribed by the Secretary and without regard to contributions and benefits under the Social Security Act) of 3 percent of such employee's compensation from the employer for the year.

''(d) QUALIFIED RETIREMENT PLAN.—

''(1) IN GENERAL.—The term 'qualified retirement plan' means any plan described in section 401(a) which includes a trust exempt from tax under section 501(a) if the plan meets—

''(A) the contribution requirements of paragraph (2),

''(B) the vesting requirements of paragraph (3), and

''(C) the distributions requirements of paragraph (4).

''(2) CONTRIBUTION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer is required to make nonelective contributions of at least 1 percent of compensation (or the equivalent thereof in the case of a defined benefit plan) for each employee who is not a highly compensated employee who is eligible to participate in the plan, and

''(ii) allocations of nonelective employer contributions are either in equal dollar amounts for all employees covered by the plan or bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

''(B) COMPENSATION LIMITATION.—The compensation taken into account under subparagraph (A) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

''(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met if the plan satisfies the requirements of subparagraph (A) or (B).

''(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(B) 5-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	**The nonforfeitable percentage is:**
1	20
2	40
3	60
4	80
5	100.

''(4) DISTRIBUTION REQUIREMENTS.—In the case of a profit-sharing or stock bonus plan, the requirements of this paragraph are met if, under the plan, qualified employer contributions are distributable only as provided in section 401(k)(2)(B).

''(e) OTHER DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which has no more than 50 employees who received at least $5,000 of compensation from the employer for the preceding year.

''(B) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

''(2) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q) (determined without regard to section 414(q)(1)(B)(ii)).

''(f) SPECIAL RULES.—

''(1) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified employer contributions paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

''(2) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

''(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

''(g) RECAPTURE OF CREDIT ON FORFEITED CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if any accrued benefit which is forfeitable by reason of subsection (d)(3) is forfeited, the employer's tax imposed by this chapter for the taxable year in which the forfeiture occurs shall be increased by 35 percent of the employer contributions from which such benefit is derived to the extent such contributions were taken into account in determining the credit under this section.

''(2) REALLOCATED CONTRIBUTIONS.—Paragraph (1) shall not apply to any contribution which is reallocated by the employer under the plan to employees who are not highly compensated employees.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit), as amended by section 411(b)(1), is amended by striking ''plus'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting '', plus'', and by adding at the end the following new paragraph:

''(15) in the case of an eligible employer (as defined in section 45F(e)), the small employer pension plan contribution credit determined under section 45F(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 411(b)(2), is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN CONTRIBUTION CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan contribution credit determined under section 45F may be carried back to a taxable year beginning before January 1, 2002.''.

(2) Subsection (c) of section 196, as amended by section 411(b)(3), is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the small employer pension plan contribution credit determined under section 45F(a).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 411(b)(4), is amended by adding at the end the following new item:

''Sec. 45F. Small employer pension plan contributions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or incurred in taxable years beginning after December 31, 2001.

SEC. 803. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 802(a), is amended by adding at the end the following new section:

''SEC. 45G. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

''(b) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

''(1) $500 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

''(2) zero for any other taxable year.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible employer' has the meaning given such term by section 408(p)(2)(C)(i).

''(2) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED STARTUP COSTS.—

''(A) IN GENERAL.—The term 'qualified startup costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

''(i) the establishment or administration of an eligible employer plan, or

''(ii) the retirement-related education of employees with respect to such plan.

''(B) PLAN MUST HAVE AT LEAST 1 PARTICIPANT.—Such term shall not include any expense in connection with a plan that does not have at least 1 employee eligible to participate who is not a highly compensated employee.

''(2) ELIGIBLE EMPLOYER PLAN.—The term 'eligible employer plan' means a qualified employer plan within the meaning of section 4972(d).

''(3) FIRST CREDIT YEAR.—The term 'first credit year' means—

''(A) the taxable year which includes the date that the eligible employer plan to which such costs relate becomes effective, or

''(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit), as amended by section 802(b), is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) in the case of an eligible employer (as defined in section 45G(c)), the small employer pension plan startup cost credit determined under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 802(c)(1), is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN STARTUP COST CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45G may be carried back to a taxable year beginning before January 1, 2002.''.

(2) Subsection (c) of section 196, as amended by section 802(c)(2), is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding at the end the following new paragraph:

''(12) the small employer pension plan startup cost credit determined under section 45G(a).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 802(c)(3), is amended by adding at the end the following new item:

''Sec. 45G. Small employer pension plan startup costs.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001, with respect to qualified employer plans established after such date.

TITLE IX—TAX RELIEF FOR ADOPTIVE PARENTS

SEC. 901. EXPANSION OF ADOPTION CREDIT.

(a) IN GENERAL.—

(1) ADOPTION CREDIT.—Section 23(a)(1) (relating to allowance of credit) is amended to read as follows:

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter—

''(A) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

''(B) in the case of an adoption of a child with special needs, $10,000.''.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(a) (relating to adoption assistance programs) is amended to read as follows:

''(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished purusant to an adoption assistance program. The amount of the exclusion shall be—

''(1) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

''(2) in the case of an adoption of a child with special needs, $10,000.''.

(b) DOLLAR LIMITATIONS.—

(1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

(A) ADOPTION EXPENSES.—Section 23(b)(1) (relating to allowance of credit) is amended—

(i) by striking ''$5,000'' and inserting ''$10,000'',

(ii) by striking ''($6,000, in the case of a child with special needs)'', and

(iii) by striking ''subsection (a)'' and inserting ''subsection (a)(1)(A)''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended—

(i) by striking ''$5,000'' and inserting ''$10,000'', and

(ii) by striking ''($6,000, in the case of a child with special needs)'', and

(iii) by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking ''$75,000'' and inserting ''$150,000''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking ''$75,000'' and inserting ''$150,000''.

(c) YEAR CREDIT ALLOWED.—Section 23(a)(2) is amended by adding at the end the following new flush sentence:

''In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.''.

(d) REPEAL OF SUNSET PROVISIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) (relating to definition of eligible child) is amended to read as follows:

''(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual who—

''(A) has not attained age 18, or

''(B) is physically or mentally incapable of caring for himself.''.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 (relating to adoption assistance programs) is amended by striking subsection (f).

(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION CREDIT.—Section 23 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(1)(B) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

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

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137, as amended by subsection (d), is amended by adding at the end the following new subsection:

''(f) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

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

(f) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—Subsection (c) of section 23 is amended by striking ''the limitation imposed'' and all that follows through ''1400C)'' and inserting ''the applicable tax limitation''.

(2) APPLICABLE TAX LIMITATION.—Subsection (d) of section 23 is amended by adding at the end the following new paragraph:

''(4) APPLICABLE TAX LIMITATION.—The term 'applicable tax limitation' means the sum of—

''(A) the taxpayer's regular tax liability for the taxable year, reduced (but not below zero) by the sum of the credits allowed by sections 21, 22, 24 (other than the amount of the increase under subsection (d) thereof), 25, and 25A, and

''(B) the tax imposed by section 55 for such taxable year.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended by inserting ''(other than section 23)'' after ''allowed by this subpart''.

(B) Paragraph (1) of section 53(b) (relating to minimum tax credit) is amended by inserting ''reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years,'' after ''1986,''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. GRAHAM, Mr. KENNEDY, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BYRD, Mrs. CARNAHAN, Mr. CLELAND, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES and, Mr. SCHUMER):

S. 10. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Finance.

MEDICARE PRESCRIPTION DRUG COVERAGE ACT OF 2001

Mr. BAUCUS. Mr. President, today I introduce legislation, along with Senator DASCHLE and our colleagues, to establish a universal prescription drug benefit program in Medicare. I am pleased to be part of this effort, because I believe Congress should enact a drug benefit this year. The lack of coverage for outpatient prescription drugs in Medicare has become a glaring gap in the program.

The practice of medicine has changed dramatically since Medicare was created in 1965. Today, more often than not, a trip to the doctor results in a trip to the pharmacy, to fill a prescription as part of the therapy. In many cases, prescription drugs allow patients to avoid more expensive and invasive therapies such as hospitalization and surgery.

Our increasing reliance on pharmaceutical products has also fueled drug spending. Pharmaceuticals are the fastest growing segment of national health expenditures. In 2000, national drug spending increased by an estimated 11 percent, compared with 7 percent for physician services and 6 percent for hospital care. Since 1990, national spending for prescription drugs has tripled.

And as the role and expense of prescription drugs have grown, their absence from Medicare's outpatient benefit package has become increasingly problematic for beneficiaries. An estimated 35 percent of Medicare beneficiaries currently lack coverage for outpatient prescription drugs. But that figure may understate the problem. One study has shown that only about 50 percent of seniors have drug coverage throughout the year, and for many who do have coverage, it is often limited or inadequate.

In my home state of Montana, Medicare beneficiaries are even less likely to have coverage for prescription drugs than those living in other parts of the country. A National Economic Council study that I requested last year showed that rural Medicare beneficiaries are 50 percent less likely than their urban counterparts to have prescription drug coverage. And although rural Medicare beneficiaries use 10 percent more prescriptions than urban folks, they pay 25 percent more out-of-pocket for their drugs.

These factors underscore the importance of this issue to folks back home. I intend to work hard this year to pass a Medicare drug bill for them and for the millions of other Medicare beneficiaries who lack coverage or are at risk of losing the coverage they currently have. It is time for Congress to act on this issue and pass legislation to provide prescription drugs for America's seniors.

The Medicare Prescription Drug Coverage Act of 2001 is a good place to start. This legislation builds on the excellent work of Senator GRAHAM and other members of the Finance Committee, including Senators CONRAD, JEFFORDS, and ROCKEFELLER. The benefit is universal, it is part of the Medicare program, it includes a deductible, and patient coinsurance decreases as drug expenditures increase. The proposal provides subsidies for low-income seniors to help them with their premiums and cost sharing. And the proposal relies on private sector entities to administer the benefit.

Let me add—by no means does this legislation represent the end of the debate. Rather, it represents a beginning, a starting point. For example, the bill does not address many of the elements of Medicare reform that are currently on the table and, quite frankly, should be included. President Bush and others have emphasized that a new drug benefit must be added in the context of overall Medicare reform. As Senator BREAUX is fond of saying, a prescription drug benefit is the dessert that we get when we take the medicine of reform.

I expect that any prescription drug legislation we pass, and the President signs, will include provisions addressing solvency, competition, HCFA reform, and fee-for-service modernizations. These are areas, in addition to adding a drug benefit, where Medicare could also be updated and improved, and the bipartisan Medicare Commission has gone a long way toward putting these issues on the national agenda.

I am encouraged that the new administration also recognizes that prescription drugs is an important issue. President Bush campaigned on a promise to address this issue early on, and I sincerely appreciate that it is one of the top priorities of the new administration. Likewise, I know that Senator GRASSLEY also cares deeply about this issue.

In closing, I want to reiterate that I am committed to working with Senator GRASSLEY, with the other members of the Finance Committee, and with the new Administration to come up with a compromise solution. It is truly my hope that we can work together, build consensus, and forge compromise solutions on this issue. If we're creative, and if we listen to each other, I am confident that we can find balanced and bipartisan solution.

S. 10

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Prescription Drug Coverage Act of 2001''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Prescription drug coverage was not a standard part of health insurance when the medicare program under title XVIII of the Social Security Act was enacted in 1965. Since 1965, however, drug coverage has become a key component of most private and public health insurance coverage, except for the medicare program.

(2) At least ⅔ of medicare beneficiaries have unreliable, inadequate, or no drug coverage at all.

(3) Seniors who do not have drug coverage typically pay 15 percent more for prescription drugs than individuals that have such coverage pay for such drugs, and often pay 2 times the best available price for such drugs.

(4) Although many medicare beneficiaries who lack prescription drug coverage have low incomes, more than ½ of such beneficiaries have incomes greater than 150 percent of the poverty line.

(5) The number of private firms offering retiree health coverage is declining.

(6) The premiums for medicare supplemental policies (medigap policies) that provide prescription drug coverage are too expensive for most medicare beneficiaries and are highest for older senior citizens who need prescription drug coverage the most and typically have the lowest incomes.

(7) The management of a medicare prescription drug benefit should mirror the practices employed by private entities in delivering prescription drugs. Discounts should be achieved through competition.

(8) All medicare beneficiaries should have access to a voluntary, reliable, affordable outpatient drug benefit as part of the medicare program that assists with the high cost of prescription drugs and protects them against excessive out-of-pocket costs.

(9) The addition of a medicare drug benefit should be consistent with an overall plan to strengthen and modernize the medicare program.

SEC. 3. MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''DEFINITIONS

''SEC. 1860. In this part:

''(1) COVERED OUTPATIENT DRUG.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

''(i) A drug which may be dispensed only upon prescription, and—

''(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

''(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

''(ii) A biological product which—

''(I) may only be dispensed upon prescription;

''(II) is licensed under section 351 of the Public Health Service Act; and

''(III) is produced at an establishment licensed under such section to produce such product.

''(iii) Insulin approved under appropriate Federal law, including needles, syringes, and disposable pumps for the administration of such insulin.

''(iv) A prescribed drug or biological product that would meet the requirements of clause (i) or (ii) but that it is available over-the-counter in addition to being available upon prescription.

''(B) EXCLUSION.—The term 'covered outpatient drug' does not include any product—

''(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

''(ii) that is covered under part A or B (unless coverage of such product is not available because benefits under part A or B have been exhausted); or

''(iii) except for agents used to promote smoking cessation, for which coverage may be excluded or restricted under section 1927(d)(2).

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A or enrolled under part B.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate to provide eligible beneficiaries with covered outpatient drugs under a contract entered into under this part, including—

''(A) a pharmacy benefit management company;

''(B) a retail pharmacy delivery system;

''(C) a health plan or insurer;

''(D) a State (through mechanisms established under a State plan under title XIX);

''(E) any other entity approved by the Secretary; or

''(F) any combination of the entities described in subparagraphs (A) through (E) if the Secretary determines that such combination—

''(i) increases the scope or efficiency of the provision of benefits under this part; and

''(ii) is not anticompetitive.

''SUBPART 1—ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''SEC. 1860A. (a) PROVISION OF BENEFIT.—Beginning on the date that is 1 year after the date of enactment of this Act, the Secretary shall provide for an outpatient prescription drug benefit program under which an eligible beneficiary shall be provided covered outpatient drugs.

''(b) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program established under this part.

''(c) SCOPE OF BENEFITS.—The program established under this part shall provide for coverage of all therapeutic classes of covered outpatient drugs.

''(d) FINANCING.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

''ENROLLMENT

''SEC. 1860B. (a) ENROLLMENT UNDER PART D.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837.

''(B) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive covered outpatient drugs under this title.

''(2) ENROLLMENT PROCEDURES.—

''(A) LATE ENROLLMENT PENALTY.—

''(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in subparagraph (B), the Secretary shall establish procedures for increasing the amount of the monthly premium under section 1860D applicable to such beneficiary—

''(I) by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled; or

''(II) if determined appropriate by the Secretary, by an amount that the Secretary determines is actuarily sound for each such period.

''(ii) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under clause (i), there shall be taken into account—

''(I) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

''(II) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

''(iii) PERIODS NOT TAKEN INTO ACCOUNT.—

''(I) IN GENERAL.—For purposes of calculating any 12-month period under clause (i), subject to subclause (II), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary was covered under a group health plan, including a qualified retiree prescription drug plan (as defined in section 1860I(e)(3)) for which an incentive payment was paid under section 1860I, that provides coverage of the cost of prescription drugs whose actuarial value (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient

prescription drug benefit program under this part.

''(II) APPLICATION.—This clause shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes the date on which the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the value of the coverage provided under the program under this part.

''(iv) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly premium under clause (i) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

''(v) CONTINUOUS PERIOD OF ELIGIBILITY.—

''(I) IN GENERAL.—Subject to subclause (II), for purposes of this subparagraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

''(II) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

''(B) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under subparagraph (A)(i).

''(3) PERIOD OF COVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(B) OPEN ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part pursuant to paragraph (2)(B) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(C) LIMITATION.—Coverage under this part shall not begin prior to the date that is 1 year after the date of enactment of this Act.

''(4) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

''(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or part B.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) under part B.

''(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

''(1) PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall make an annual election to enroll with any eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

''(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall use rules similar to the rules for enrollment and disenrollment with a Medicare+Choice plan under section 1851 (including special election periods under subsection (e)(4) of such section).

''(2) MEDICARE+CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of covered outpatient drugs under this part through such plan.

''(c) FIRST ENROLLMENT PERIOD.—The processes developed under subsections (a) and (b) shall ensure that eligible beneficiaries are permitted to enroll under this part and with an eligible entity prior to the date that is 1 year after the date of enactment of this Act, in order to ensure that coverage under this part is effective as of such date.

''PROVIDING INFORMATION TO BENEFICIARIES

''SEC. 1860C. (a) ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

''(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860B(c).

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The activities described in subsection (a) shall—

''(A) be similar to the activities performed by the Secretary under section 1851(d);

''(B) be coordinated with the activities performed by the Secretary under such section and under section 1804; and

''(C) provide for the dissemination of information comparing the eligible entities that are available to eligible beneficiaries residing in an area under this part.

''(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(B) shall include the following:

''(A) BENEFITS.—A comparison of the benefits provided by each eligible entity, including a comparison of the pharmacy networks used by each eligible entity and the formularies and appeals processes implemented by each entity.

''(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of each eligible entity.

''(C) BENEFICIARY COSTS.—The cost-sharing required of eligible beneficiaries enrolled in each eligible entity.

''(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding each eligible entity.

''(E) ADDITIONAL INFORMATION.—Such additional information as the Secretary may prescribe.

''(3) INFORMATION STANDARDS.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and uniform.

''(c) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—The Secretary may contract with Medicare Consumer Coalitions to conduct the informational activities—

''(A) under this section;

''(B) under section 1851(d); and

''(C) under section 1804.

''(2) SELECTION OF COALITIONS.—If the Secretary determines the use of Medicare Consumer Coalitions to be appropriate, the Secretary shall—

''(A) develop and disseminate, in such areas as the Secretary determines appropriate, a request for proposals for Medicare Consumer Coalitions to contract with the Secretary in order to conduct any of the informational activities described in paragraph (1); and

''(B) select a proposal of a Medicare Consumer Coalition to conduct the informational activities in each such area, with a preference for broad participation by organizations with experience in providing information to beneficiaries under this title.

''(3) PAYMENT TO MEDICARE CONSUMER COALITIONS.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to contract with Medicare Consumer Coalitions under this section.

''(5) MEDICARE CONSUMER COALITION DEFINED.—In this subsection, the term 'Medicare Consumer Coalition' means an entity that is a nonprofit organization operated under the direction of a board of directors that is primarily composed of beneficiaries under this title.

''PREMIUMS

''SEC. 1860D. (a) ANNUAL ESTABLISHMENT OF MONTHLY PREMIUM RATES.—

''(1) PREMIUM.—The Secretary shall, during September of each year (beginning with the first September after the day that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001), determine and promulgate a monthly premium rate for the succeeding year in accordance with the provisions of this subsection.

''(2) ACTUARIAL DETERMINATIONS.—

''(A) DETERMINATION OF ANNUAL BENEFIT AND ADMINISTRATIVE COSTS.—The Secretary shall estimate annually for the succeeding year the amount equal to the total of the benefits and administrative costs that will be payable from the Federal Supplementary Medical Insurance Trust Fund for providing covered outpatient drugs in such calendar year with respect to enrollees in the program under this part.

''(B) DETERMINATION OF MONTHLY PREMIUM RATES.—

''(i) IN GENERAL.—The Secretary shall determine the monthly premium rate with respect to such enrollees for such succeeding year, which shall be 1/12 of the applicable percent of the amount determined under subparagraph (A), divided by the total number of such enrollees, and rounded (if such rate is not a multiple of 10 cents) to the nearest multiple of 10 cents.

''(ii) DEFINITION OF APPLICABLE PERCENT.—For purposes of clause (i), the term 'applicable percent' means—

''(I) 45 percent, in the case of premiums paid by an eligible beneficiary enrolled in the program under this part; and

''(II) 66.66 percent, in the case of premiums paid for such a beneficiary by an employer (as defined in section 1860I(e)(2)) that the beneficiary formerly worked for.

''(3) PUBLICATION OF ASSUMPTIONS.—The Secretary shall publish, together with the promulgation of the monthly premium rates for the succeeding year, a statement setting forth the actuarial assumptions and bases employed in arriving at the amounts and rates determined under paragraphs (1) and (2).

''(b) COLLECTION OF PREMIUM.—The monthly premium applicable to an eligible beneficiary under this part shall be collected and

credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

''COST-SHARING

''SEC. 1860E. (a) DEDUCTIBLE.—

''(1) IN GENERAL.—Subject to paragraph (2), no payments shall be made under this part on behalf of an eligible beneficiary until the beneficiary has met a $250 deductible.

''(2) WAIVER OF DEDUCTIBLE FOR GENERIC DRUGS.—

''(A) IN GENERAL.—An eligible entity may provide that generic drugs are not subject to the deductible described in paragraph (1) if the Secretary determines that the waiver of the deductible—

''(i) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

''(ii) will not result in an increase in the expenditures made from the Federal Supplementary Medical Insurance Trust Fund.

''(B) CREDIT FOR AMOUNTS PAID.—If the deductible is waived pursuant to subparagraph (A), any coinsurance paid by an eligible beneficiary for the generic drug shall be credited toward the annual deductible.

''(b) COINSURANCE.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Subject to paragraph (2), if any covered outpatient drug is provided to an eligible beneficiary in a year after the beneficiary has met any deductible requirement under subsection (a) for the year, the beneficiary shall be responsible for making payments for the drug in an amount equal to the applicable percentage of the cost of the drug.

''(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A), the 'applicable percentage' means, with respect to any covered outpatient drug provided to an eligible beneficiary in a year—

''(i) 50 percent to the extent the out-of-pocket expenses of the beneficiary for such drug, when added to the out-of-pocket expenses of the beneficiary for covered outpatient drugs previously provided in the year, do not exceed $3,500;

''(ii) 25 percent to the extent such expenses, when so added, exceed $3,500 but do not exceed $4,000; and

''(iii) 0 percent to the extent such expenses, when so added, would exceed $4,000.

''(C) OUT-OF-POCKET EXPENSES DEFINED.—For purposes of subparagraph (B), the term 'out-of-pocket expenses' means expenses incurred as a result of the application of the deductible under subsection (a) and the coinsurance required under this subsection.

''(2) REDUCTION BY ELIGIBLE ENTITY.—An eligible entity may reduce the applicable percentage that an eligible beneficiary is subject to under paragraph (1) if the Secretary determines that such reduction—

''(A) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

''(B) will not result in an increase in the expenditures made from the Federal Supplementary Medical Insurance Trust Fund.

''(c) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any calendar year beginning after 2004, each of the dollar amounts in subsections (a)(1) and (b)(1)(B) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the percentage (if any) by which the amount of average per capita expenditures under this part in the preceding calendar year exceeds the amount of such expenditures in 2003.

''(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $5, such dollar amount shall be rounded to the nearest multiple of $5.

''SELECTION OF ENTITIES TO PROVIDE OUTPATIENT DRUG BENEFIT

''SEC. 1860F. (a) ESTABLISHMENT OF BIDDING PROCESS.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary accepts bids submitted by eligible entities and awards contracts to such entities in order to administer and deliver the benefits provided under this part to eligible beneficiaries in an area.

''(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

''(b) AREA FOR CONTRACTS.—

''(1) REGIONAL BASIS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to paragraph (2), the contract entered into between the Secretary and an eligible entity shall require the eligible entity to provide covered outpatient drugs on a regional basis.

''(B) PARTIAL REGIONAL BASIS.—

''(i) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the coverage described in subparagraph (A) to be provided on a partial regional basis.

''(ii) REQUIREMENTS.—If the Secretary permits coverage pursuant to clause (i), the Secretary shall ensure that the partial region in which coverage is provided is—

''(I) at least the size of the commercial service area of the eligible entity for that area; and

''(II) not smaller than a State.

''(2) DETERMINATION.—

''(A) IN GENERAL.—In determining coverage areas under this part, the Secretary shall—

''(i) take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities; and

''(ii) ensure that there are at least 10 different coverage areas in the United States.

''(B) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of coverage areas under this part shall not be subject to administrative or judicial review.

''(c) SUBMISSION OF BIDS.—

''(1) IN GENERAL.—Each eligible entity desiring to provide covered outpatient drugs under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) REQUIRED INFORMATION.—The bids described in paragraph (1) shall include—

''(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

''(B) the amount that the entity will charge the Secretary for administering and delivering the benefits under such contract;

''(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860E(a)(2);

''(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and if so, the amount of such reduction;

''(E) a detailed description of—

''(i) the risk corridors tied to performance measures and other incentives that the entity will accept under the contract; and

''(ii) how the entity will meet such measures and incentives;

''(F) a detailed description of proposed contracts with local pharmacy providers designed to ensure access, including compensation for local pharmacists' services;

''(G) a detailed description of any ownership or shared financial interests with other entities involved in the delivery of the benefit as proposed;

''(H) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

''(I) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

''(d) ACCESS.—

''(1) IN GENERAL.—The Secretary shall ensure that an eligible entity—

''(A) complies with the access requirements described in section 1860G(a)(4)(A); and

''(B) makes available to each beneficiary covered under the contract the full scope of the benefits required under this part.

''(2) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary that resides in an area that is not covered by any contract under this part.

''(3) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary that resides in different areas in a year is provided the benefits under this part throughout the entire year.

''(4) SPECIAL ATTENTION TO RURAL AND HARD-TO-SERVE AREAS.—

''(A) IN GENERAL.—The Secretary shall ensure that all eligible beneficiaries have access to the full range of benefits under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas (as the Secretary may define by regulation).

''(B) SPECIAL ATTENTION DEFINED.—For purposes of subparagraph (A), the term 'special attention' may include bonus payments to retail pharmacists in rural areas, extra payments to eligible entities for the cost of rapid delivery of pharmaceuticals, and any other actions the Secretary determines are necessary to ensure full access to benefits under this part by eligible beneficiaries residing in rural and hard-to-serve areas.

''(C) GAO REPORT.—Not later than 2 years after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, the Comptroller General of the United States shall submit to Congress a report on the access to benefits under this part by eligible beneficiaries residing in rural and hard-to-serve areas, together with any recommendations of the Comptroller General regarding any additional steps the Secretary may need to take to ensure the access of medicare beneficiaries to such benefits.

''(e) AWARDING OF CONTRACTS.—

''(1) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless only 1 bidding entity meets the minimum standards specified under this part and by the Secretary.

''(2) DETERMINATION.—In determining which of the eligible entities that submitted bids that meet the minimum standards specified under this part and by the Secretary (including the terms and conditions described in section 1860G) to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of the past performance of the entity and other relevant factors, with respect to—

''(A) how well the entity meets such minimum standards;

''(B) the amount that the entity will charge the Secretary for administering and delivering the benefits under the contract;

''(C) the proposed prices of covered outpatient drugs and annual increases in such prices;

''(D) the proposed risk corridors tied to performance measures and other incentives that the entity will be subject to under the contract;

''(E) the factors described in section 1860C(b)(2);

''(F) prior experience in administering a prescription drug benefit program;

''(G) effectiveness in containing costs through pricing incentives and utilization management; and

''(H) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

''(3) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

''(A) is not inconsistent with the—

''(i) purposes of the programs under this title; or

''(ii) best interests of enrolled individuals; and

''(B) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

''(4) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to an eligible entity under this part shall not be subject to administrative or judicial review.

''(f) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

''(g) DURATION OF CONTRACTS.—Each contract under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

''CONDITIONS FOR AWARDING CONTRACT

''SEC. 1860G. (a) IN GENERAL.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

''(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets the quality and financial standards specified by the Secretary.

''(2) PROCEDURES TO ENSURE PROPER UTILIZATION, COMPLIANCE, AND AVOIDANCE OF ADVERSE DRUG REACTIONS.—The eligible entity has in place drug utilization review procedures to ensure—

''(A) the appropriate utilization by eligible beneficiaries of the benefits to be provided under the contract; and

''(B) the avoidance of adverse drug reactions among eligible beneficiaries enrolled with the entity, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse.

''(3) COST-EFFECTIVE PROVISION OF BENEFITS.—

''(A) IN GENERAL.—In providing the benefits under a contract under this part, an eligible entity may—

''(i) employ mechanisms to provide the benefits economically, including the use of—

''(I) formularies (pursuant to subparagraph (B));

''(II) alternative methods of distribution; and

''(III) generic drug substitution;

''(ii) use mechanisms to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs, including the use of pharmacy incentive programs, therapeutic interchange programs, and disease management programs; and

''(iii) encourage pharmacy providers to—

''(I) inform beneficiaries of the differentials in price between generic and nongeneric drug equivalents; and

''(II) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications.

''(B) FORMULARIES.—If an eligible entity uses a formulary under this part, such formulary shall comply with standards established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M. Such standards shall require that the eligible entity—

''(i) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M) to develop and implement the formulary;

''(ii) include in the formulary—

''(I) at least 1 drug from each therapeutic class (as defined by the entity's pharmacy and therapeutic committee in accordance with standards established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M);

''(II) if there is more than 1 drug available in a therapeutic class, at least 2 drugs from such class; and

''(III) if there are more than 2 drugs available in a therapeutic class, at least 2 drugs from such class and a generic drug substitute if available;

''(iii) develop procedures for the—

''(I) addition of new therapeutic classes to the formulary;

''(II) addition of new drugs to an existing therapeutic class; and

''(III) modification of the formulary;

''(iv) provide for coverage of otherwise covered non-formulary drugs when recommended by a prescribing provider; and

''(v) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary, coinsurance, and any difference in the cost-sharing for different types of drugs.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as precluding an eligible entity from—

''(i) requiring cost-sharing for nonformulary drugs that is higher than the cost-sharing established in section 1860E(b), except that such entity shall provide for coverage of a nonformulary drug at the same cost-sharing level as a drug within the formulary if such nonformulary drug is recommended by a prescribing provider;

''(ii) educating prescribing providers, pharmacists, and beneficiaries about the medical and cost benefits of formulary drugs (including generic drugs); or

''(iii) requiring prescribing providers to consider a formulary drug prior to dispensing of a nonformulary drug, as long as such requirement does not unduly delay the provision of the drug.

''(4) PATIENT PROTECTIONS.—

''(A) ACCESS.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries covered under the contract, including by doing the following:

''(i) SERVICES DURING EMERGENCIES.—Offering services 24 hours a day and 7 days a week for emergencies.

''(ii) AGREEMENTS WITH PHARMACIES.—Entering into participation agreements under subsection (b) with pharmacies, that include terms that—

''(I) secure the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access); and

''(II) permit the participation of any pharmacy in the service area that meets the participation requirements described in subsection (b).

''(B) CONTINUITY OF CARE.—

''(i) IN GENERAL.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1860B(b)), the entity will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part.

''(ii) LIMITED PERIOD.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

''(C) PROCEDURES REGARDING DENIALS OF CARE.—The eligible entity has in place procedures to ensure—

''(i) a timely internal and external review and resolution of denials of coverage (in whole or in part) and complaints (including those regarding the use of formularies under paragraph (3)) by eligible beneficiaries, or by providers, pharmacists, and other individuals acting on behalf of each such beneficiary (with the beneficiary's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C; and

''(ii) that beneficiaries are provided with information regarding the appeals procedures under this part at the time of enrollment.

''(D) PROCEDURES REGARDING PATIENT CONFIDENTIALITY.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries under a contract entered into under this part, the entity has in place procedures to—

''(i) safeguard the privacy of any individually identifiable beneficiary information;

''(ii) maintain such records and information in a manner that is accurate and timely;

''(iii) ensure timely access by such beneficiaries to such records and information; and

''(iv) otherwise comply with applicable laws relating to patient confidentiality.

''(E) PROCEDURES REGARDING TRANSFER OF MEDICAL RECORDS.—

''(i) IN GENERAL.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (D) (with respect to a beneficiary who loses coverage under this part with the entity and enrolls with another entity under this part) to such other entity.

''(ii) PATIENT CONFIDENTIALITY.—The procedures described in clause (i) shall comply

with the patient confidentiality procedures described in subparagraph (D).

''(F) PROCEDURES REGARDING MEDICAL ERRORS.—The eligible entity has in place procedures for working with the Secretary to deter medical errors related to the provision of covered outpatient drugs.

''(5) PROCEDURES TO CONTROL FRAUD, ABUSE, AND WASTE.—The eligible entity has in place procedures to control fraud, abuse, and waste.

''(6) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The eligible entity provides the Secretary with reports containing information regarding the following:

''(i) The prices that the eligible entity is paying for covered outpatient drugs.

''(ii) The prices that eligible beneficiaries enrolled with the entity will be charged for covered outpatient drugs.

''(iii) The administrative costs of providing such benefits.

''(iv) Utilization of such benefits.

''(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

''(B) TIMEFRAME FOR SUBMITTING REPORTS.—

''(i) IN GENERAL.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity has a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

''(ii) LAST YEAR OF CONTRACT.—In the case of the last year of a contract under this section, the Secretary may require that a report described in subparagraph (A) be submitted 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under this subparagraph and the date that a report is submitted under this clause.

''(C) CONFIDENTIALITY OF INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

''(ii) UTILIZATION DATA.—Subject to patient confidentiality laws, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) (regarding utilization data) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

''(7) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The eligible entity will comply with the requirements described in section 1860F(f).

''(8) RECORDS AND AUDITS.—The eligible entity maintains adequate records related to the administration of the benefit under this part and affords the Secretary access to such records for auditing purposes.

''(b) PHARMACY PARTICIPATION AGREEMENTS.—

''(1) IN GENERAL.—A pharmacy that meets the requirements of this subsection shall be eligible to enter an agreement with an eligible entity to furnish covered outpatient drugs and pharmacists' services to eligible beneficiaries enrolled with such entity and residing in the service area.

''(2) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and requirements:

''(A) LICENSING.—The pharmacy and pharmacists shall meet (and throughout the contract period will continue to meet) all applicable State and local licensing requirements.

''(B) LIMITATION ON CHARGES.—Pharmacies participating under this part shall not charge an eligible beneficiary enrolled with the eligible entity more than—

''(i) the negotiated price for an individual drug (as reported to the Secretary pursuant to subsection (a)(6)(A)); or

''(ii) the amount of the beneficiary's obligation (as determined in accordance with the provisions of this part) of the negotiated price of such drug.

''(C) PERFORMANCE STANDARDS.—The pharmacy shall comply with performance standards relating to—

''(i) measures for quality assurance, reduction of medical errors, and compliance with the drug utilization review procedures described in subsection (a)(2);

''(ii) systems to ensure compliance with the patient confidentiality standards applicable under subsection (a)(4)(D); and

''(iii) other requirements as the Secretary may impose to ensure integrity, efficiency, and the quality of the program under this part.

''PAYMENTS

''SEC. 1860H. (a) PAYMENTS TO ELIGIBLE ENTITIES.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish procedures for making payments to an eligible entity under a contract entered into under this part for the administration and delivery of the benefits under this part.

''(B) ENTITIES ONLY SUBJECT TO LIMITED RISK.—Under the procedures established under subparagraph (A), an eligible entity shall only be at risk to the extent that the entity is at risk under paragraph (2).

''(2) RISK CORRIDORS TIED TO PERFORMANCE MEASURES AND OTHER INCENTIVES.—

''(A) IN GENERAL.—The procedures established under paragraph (1) may include the use of—

''(i) risk corridors tied to performance measures that have been agreed to between the eligible entity and the Secretary under the contract; and

''(ii) any other incentives that the Secretary determines appropriate.

''(B) PHASE-IN OF RISK CORRIDORS TIED TO PERFORMANCE MEASURES.—The Secretary may phase-in the use of risk corridors tied to performance measures if the Secretary determines such phase-in to be appropriate.

''(C) PAYMENTS SUBJECT TO INCENTIVES.—If a contract under this part includes the use of risk corridors tied to performance measures or other incentives pursuant to subparagraph (A), payments to eligible entities under such contract shall be subject to such risk corridors tied to performance measures and other incentives.

''(3) RISK ADJUSTMENT.—To the extent that eligible entities are at risk because of the risk corridors or other incentives described in paragraph (2)(A), the procedures established under paragraph (1) may include a methodology for adjusting the payments made to such entities based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

''(b) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

''SEC. 1860I. (a) PROGRAM AUTHORITY.—The Secretary is authorized to develop and implement a program under this section called the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (f)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

''(2) BENEFICIARY INFORMATION.—The sponsor shall report to the Secretary, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

''(3) AUDITS.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

''(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse) who—

''(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

''(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

''(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to ⅔ of the monthly premium amount payable by an eligible beneficiary enrolled under this part, as set for the calendar year pursuant to section 1860D(a)(2).

''(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive

amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' means health insurance coverage included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription drugs whose actuarial value (as defined by the Secretary) to each retired beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.

''PROCEDURES FOR PARTIAL YEAR IMPLEMENTATION

''SEC. 1860J. If the Secretary first implements the program under this part on a day other that January 1 of a year, the Secretary shall establish procedures for implementing the program during the period between the date of implementation and December 31 of such year, including procedures—

''(1) for prorating premiums, deductibles, and coinsurance under the program during such period; and

''(2) relating to requirements and payments under the Medicare+Choice program during such period.

''APPROPRIATIONS

''SEC. 1860K. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the premiums collected under section 1860D.

''SUBPART 2—MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

''MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

''SEC. 1860M. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Pharmacy and Therapeutics Advisory Committee (in this section referred to as the 'Committee').

''(b) FUNCTIONS OF COMMITTEE.—On and after January 1, 2002, the Committee shall advise the Secretary on policies related to—

''(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

''(2) the development of—

''(A) standards for a pharmacy and therapeutics committee required of eligible entities under section 1860G(a)(3)(B)(i);

''(B) standards for—

''(i) defining therapeutic classes;

''(ii) adding new therapeutic classes to a formulary;

''(iii) adding new drugs to a therapeutic class within a formulary; and

''(iv) when and how often a formulary should be modified;

''(C) procedures to evaluate the bids submitted by eligible entities under this part; and

''(D) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

''(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

''(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Committee.

''(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

''(i) eleven shall be chosen to represent physicians;

''(ii) four shall be chosen to represent pharmacists;

''(iii) one shall be chosen to represent the Health Care Financing Administration;

''(iv) two shall be chosen to represent actuaries and pharmacoeconomists; and

''(v) one shall be chosen to represent emerging drug technologies.

''(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2002.

''(e) CHAIRMAN.—The Secretary shall designate a member of the Committee as Chairman. The term as Chairman shall be for a 1-year period.

''(f) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION OF MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

''(g) OPERATION OF THE COMMITTEE.—

''(1) MEETINGS.—The Committee shall meet at the call of the Chairman (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairman after such consultation.

''(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

''(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services, and such resources and assets of the Department used in carrying out this title, as the Committee requires.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''.

(b) EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(2) PRESCRIPTION DRUGS NOT EXCLUDED FROM COVERAGE IF APPROPRIATELY PRESCRIBED.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

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

''(J) in the case of prescription drugs covered under part D, which are not prescribed in accordance with such part;''.

(c) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of 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 Act.

SEC. 4. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(2) in subsection (i)(1), by striking ''parts A and B'' and inserting ''parts A, B, and D''.

(b) VOLUNTARY BENEFICIARY ENROLLMENT FOR DRUG COVERAGE.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under that part)'' after ''parts A and B''.

(c) ACCESS TO SERVICES.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

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

''(F) in the case of covered outpatient drugs provided to individuals enrolled under

part D (as defined in section 1860(1)), the organization complies with the access requirements applicable under part D.''.

(d) PAYMENTS TO ORGANIZATIONS.—Section 1853(a)(1)(A) of such Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(1) by inserting ''determined separately for the benefits under parts A and B and under part D (for individuals enrolled under that part)'' after ''as calculated under subsection (c)'';

(2) by striking ''that area, adjusted for such risk factors'' and inserting ''that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as''; and

(3) by inserting before the last sentence the following: ''In the case of the payments for the benefits under part D, such payment shall initially be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence. By 2006, the adjustments to payments for benefits under part D shall be for the same risk factors used to adjust payments for the benefits under parts A and B.''.

(e) CALCULATION OF ANNUAL MEDICARE+CHOICE CAPITATION RATES.—Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for benefits under parts A and B'' after ''capitation rate''; and

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

''(8) PAYMENT FOR PART D BENEFITS.—The Secretary shall determine a capitation rate for part D benefits (for individuals enrolled under such part) as follows:

''(A) DRUGS DISPENSED BEFORE 2004.—In the case of prescription drugs dispensed on or after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001 and before January 1, 2004, the capitation rate shall be based on the projected national per capita costs for prescription drug benefits under part D and associated claims processing costs for beneficiaries enrolled under part D and not enrolled with a Medicare+Choice organization under this part.

''(B) DRUGS DISPENSED IN SUBSEQUENT YEARS.—In the case of prescription drugs dispensed in 2004 or a subsequent year, the capitation rate shall be equal to the capitation rate for the preceding year increased by the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual enrolled under part D for such subsequent year.''.

(f) LIMITATION ON ENROLLEE LIABILITY.—Section 1854(e) of such Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR PART D BENEFITS.—With respect to outpatient prescription drug benefits under part D, a Medicare+Choice organization may not require that an enrollee pay a deductible or a coinsurance percentage that exceeds the deductible or coinsurance percentage applicable for such benefits for an eligible beneficiary under part D.''.

(g) REQUIREMENT FOR ADDITIONAL BENEFITS.—Section 1854(f)(1) of such Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: ''Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after the date that is 1 year after the date of enactment of this Act.

SEC. 5. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking ''attributable to the application of section'' and inserting ''attributable to—

''(1) the application of section'';

(2) by striking the period and inserting ''; and''; and

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

''(2) the program under part D providing payment for covered outpatient drugs (including costs associated with making payments to employers and other sponsors of employment-based health care coverage under the Employer Incentive Program under section 1860I).''.

SEC. 6. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) INCLUSION IN MEDICARE COST-SHARING.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and'' at the end; and

(C) by adding at the end the following new clause:

''(iii) premiums under section 1860D.'';

(2) in subparagraph (B), by striking ''section 1813'' and inserting ''sections 1813 and 1860E(b)''; and

(3) in subparagraph (C), by striking ''section 1813 and section 1833(b)'' and inserting ''sections 1813, 1833(b), and 1860E(a)''.

(b) EXPANSION OF MEDICAL ASSISTANCE.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (iii)—

(A) by striking ''section 1905(p)(3)(A)(ii)'' and inserting ''clauses (ii) and (iii) of section 1905(p)(3)(A), for the coinsurance described in section 1860E(b), and for the deductible described in section 1860E(a)''; and

(B) by striking ''and'' at the end;

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

(3) by inserting after clause (iii) the following new clauses:

''(iv) for making medical assistance available for Medicare cost-sharing described in section 1905(p)(3)(A)(iii), for the coinsurance described in section 1860E(b), and for the deductible described in section 1860E(a) for individuals who would be qualified Medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 120 percent but does not exceed 135 percent of such official poverty line for a family of the size involved;

''(v) for making medical assistance available for Medicare cost-sharing described in section 1905(p)(3)(A)(iii) on a linear sliding scale based on the income of such individuals for individuals who would be qualified Medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 135 percent but does not exceed 175 percent of such official poverty line for a family of the size involved; and''.

(c) NONAPPLICABILITY OF RESOURCE REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by adding at the end the following flush sentence:

''In determining if an individual is a qualified medicare beneficiary under this paragraph, subparagraph (C) shall not be applied for purposes of providing the individual with medicare cost-sharing that consists of premiums under section 1860D, coinsurance described in section 1860E(b), or deductibles described in section 1860E(a).''.

(d) NONAPPLICABILITY OF PAYMENT DIFFERENTIAL REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1902(n)(2) of the Social Security Act (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to coinsurance described in section 1860E(b) or deductibles described in section 1860E(a).''.

(e) 100 PERCENT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and'' before ''(3)''; and

(2) by inserting before the period at the end the following: '', and (4) the Federal medical assistance percentage shall be 100 percent with respect to medical assistance provided under clauses (iv) and (v) of section 1902(a)(10)(E)''.

(f) TREATMENT OF TERRITORIES.—Section 1108(g) of such Act (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the preceding provisions of this subsection, with respect to the first fiscal quarter that begins on or after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001 and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (f)) for the fiscal year for a Commonwealth or territory shall be increased by the ratio (as estimated by the Secretary) of—

''(A) the aggregate amount of payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of Medicare cost-sharing that consists of premiums under section 1860D, coinsurance described in section 1860E(b), or deductibles described in section 1860E(a); to

''(B) the aggregate amount of total payments made to such States and District for the fiscal year under such title.''.

(g) CONFORMING AMENDMENTS.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended—

(1) in subsection (a), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)'';

(2) in subsection (c)(2)(A)—

(A) in clause (i), by striking ''section 1902(a)(10)(E)(iv)(I)'' and inserting ''section 1902(a)(10)(E)(vi)(I)''; and

(B) in clause (ii), by striking ''section 1902(a)(10)(E)(iv)(II)'' and inserting ''section 1902(a)(10)(E)(vi)(II)'';

(3) in subsection (d), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''; and

(4) in subsection (e), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after the date that is 1 year after the date of enactment of this Act.

SEC. 7. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) MODERNIZED BENEFIT PACKAGES FOR MEDICARE SUPPLEMENTAL POLICIES.—

''(1) PROMULGATION OF MODEL REGULATION.—

''(A) NAIC MODEL REGULATION.—If, within 6 months after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, the National Association of Insurance

Commissioners (in this subsection referred to as the 'NAIC') changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit packages classified as 'H', 'I', and 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) so that—

''(i) the coverage for outpatient prescription drugs available under such benefit packages is replaced with coverage for outpatient prescription drugs that compliments but does not duplicate the benefits for outpatient prescription drugs that beneficiaries are otherwise entitled to under this title;

''(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for—

''(I) the deductible under section 1860E(a); or

''(II) more than 90 percent of the coinsurance applicable to an individual under section 1860E(b);

''(iii) uniform language and definitions are used with respect to such revised benefits;

''(iv) uniform format is used in the policy with respect to such revised benefits; and

''(v) such revised standards meet any additional requirements imposed by the Medicare Prescription Drug Coverage Act of 2001; subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2002 NAIC Model Regulation').

''(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 6-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 6 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2002 Federal Regulation').

''(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

''(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits (including deductibles and coinsurance) under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2002 NAIC Model Regulation or 2002 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'G' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

''(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

''(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

''(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2002 NAIC Model Regulation or 2002 Federal Regulation; and

''(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

''(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.''.

SEC. 8. COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG COVERAGE FOR TRANSPLANT PATIENTS.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended by section 113(a) 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), is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs furnished on or after the date of enactment of this Act.

SEC. 9. HHS STUDIES AND REPORT TO CONGRESS REGARDING OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct a study on the following:

(1) WAIVER OR REDUCTION OF LATE ENROLLMENT PENALTY.—The feasibility and advisability of establishing an annual open enrollment period under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) in which the late enrollment penalty under section 1860B(a)(2)(A) of the Social Security Act (as so added) would be reduced or would not be applied. Such study shall include a projection of the costs if open enrollment was allowed with a reduced penalty or without a penalty.

(2) UNIFORM FORMAT FOR PHARMACY BENEFIT CARDS.—The feasibility and advisability of establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under such outpatient prescription drug benefit program.

(3) DEVELOPMENT OF SYSTEMS TO ELECTRONICALLY TRANSFER PRESCRIPTIONS.—The feasibility and advisability of developing systems to electronically transfer prescriptions under such outpatient prescription drug benefit program from the prescriber to the pharmacist.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the results of the studies conducted under subsection (a), together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such studies.

SEC. 10. GAO STUDY AND BIENNIAL REPORTS ON COMPETITION AND SAVINGS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3), including an analysis of—

(1) the extent to which the competitive bidding process under such program fosters maximum competition and efficiency; and

(2) the savings to the medicare program resulting from such outpatient prescription drug benefit program, including the reduction in the number or length of hospital visits.

(b) INITIAL REPORT ON COMPETITIVE BIDDING PROCESS.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the extent to which the competitive bidding process under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) is expected to foster maximum competition and efficiency.

(c) BIENNIAL REPORTS.—Not later than January 1, 2004, and biennially thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study.

SEC. 11. MEDPAC STUDY AND ANNUAL REPORTS ON THE PHARMACEUTICAL MARKET, PHARMACIES, AND BENEFICIARY ACCESS.

(a) ONGOING STUDY.—The Medicare Payment Advisory Commission shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3), including an analysis of the impact of such program on—

(1) the pharmaceutical market, including costs and pricing of pharmaceuticals, beneficiary access to such pharmaceuticals, and trends in research and development;

(2) franchise, independent, and rural pharmacies; and

(3) beneficiary access to outpatient prescription drugs, including an assessment of—

(A) out-of-pocket spending;

(B) generic and brand-name utilization; and

(C) pharmacists' services.

(b) REPORT.—Not later than January 1, 2004, and annually thereafter, the Medicare Payment Advisory Commission shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that such Commission determines to be appropriate as a result of such study.

SEC. 12. APPROPRIATIONS.

In addition to amounts otherwise appropriated to the Secretary of Health and Human Services, there are authorized to be appropriated to the Secretary for fiscal year 2002 and each subsequent fiscal year such sums as may be necessary to administer the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3).

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BROWNBACK, Mr. NICKLES, Mr. KYL, Mr. MURKOWSKI, Mr. ALLEN, Mr. GRAMM, Mr. CRAPO, Mr. WARNER, Mr. HAGEL, Mr. BUNNING, Mr. FRIST, Mr. MCCONNELL, Mr. BURNS, Mr. ENSIGN, Mr. HELMS, and Mr. CRAIG):

S. 11. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes; to the Committee on Finance.

MARRIAGE PENALTY LEGISLATION

Mrs. HUTCHISON. Mr. President, for 4 years now, I have introduced a bill to eliminate the marriage penalty tax. I have said all of these years that I do not think Americans should have to choose between love and money. They should be able to get married and not be penalized because they do. But in fact 25 million married couples in America today do pay a penalty just because they got married. The sad thing is, the average penalty they pay is about $1,400. That is $1,400 that a young couple would like to have as they are starting their lives together, for the things they want: Like the down payment on the new house or the new car or the expenses associated with having children. We want them to be able to have the money they earn to make their choices rather than having Uncle Sam take $1,400 more just because of what amounts to a glitch in the Tax Code that requires these married couples to pay this penalty.

The bill I have just introduced today, S. 11, is cosponsored by Senators BROWNBACK, LOTT, NICKLES, ALLEN, BUNNING, BURNS, CRAPO, FRIST, GRAMM, HAGEL, KYL, ENSIGN, MCCONNELL, MURKOWSKI and WARNER.

This is a bill that I hope will have broad bipartisan support because, in fact, we have passed it twice and sent it to the President with bipartisan majorities in the past. The President has chose to veto the bills before, but today we have a new President who I believe will sign marriage penalty relief. It was part of President Bush's campaign. When we send him Marriage penalty relief for the third time in a bipartisan way in Congress, I believe President Bush will sign it.

I am very pleased this bill will double the standard deduction for married couples. Today, if you get married the standard deduction that two single people would have is not double. We want to double the standard deduction. Two people getting married who have two incomes but do not itemize would receive a increase of $1,500 in their standard deduction. That is what we want to do.

Secondly, we will double each tax bracket for married couples filing a joint return. For example, if a couple is in the 15-percent income tax bracket but they get married and are thrown into the 30-percent bracket, we want to provide them relief such that they will effectively remain in the 15 percent bracket. This bill would widen the 15-percent bracket by $9,000 for married couples.

Congress passed this legislation, and it was vetoed. Today, I am introducing this bill. I know we are going to pass it in this Congress, and I know it will be signed. This is the beginning of a new day in our United States of America, and we are going to eliminate the marriage penalty this year. I will count on it.

Mr. BURNS. Mr. President, I rise in support of legislation my colleague from Texas introduced today that will put an end to the ''marriage penalty'' tax. Mr. President, we've been fighting this tax inequity for several years now. The people of Montana have spoken to me either through letters or conversation—they think this tax is unfair.

When we first started working to resolve this issue, I was contacted by Joshua and Jody Hayes of Billings, Montana. The Hayes paid $971 more in taxes because they were married than they would have paid if they remained single.

In Montana, it is estimated that nearly 90,000 couples are penalized by this tax to the tune of $51.5 million—solely for being married. Making a living—supporting a family—is a difficult task in today's fast paced economy. A young couple married today is immediately subject to an additional financial burden because they want to share their lives together. The federal tax system penalizes these young couples. These are not wealthy people—this effort to provide tax relief does not discriminate—this effort does not single out a specific income group. It is a tax on families.

I, along with my Republican colleagues, have made it clear that continued tax reform and tax relief is necessary, but I can think of no other tax that has such a dramatic impact on so many people.

If ever there was a disincentive to be married, this penalty would be it. I believe this, along with the estate tax, is one of the most unfair taxes on Americans. It is not right for people to be penalized with higher taxes simply because they choose to get married.

According to the Congressional Budget Office (CBO), almost half of all married couples pay higher taxes due to their marital status. Cumulatively, the marriage penalty increases taxes on affected couples by $29 billion per year. Currently, this tax penalty imposes an average additional tax of $1400 on 21 million married couples nationwide.

Mr. President, the marriage penalty can have significantly negative economic implications for the country as a whole as well. Not only does this penalty within the tax system stand as a likely obstacle to marriage, it can actually discourage a spouse from entering the workforce.

By adding together husband and wife under the rate schedule, tax laws both encourage families to identify a primary and secondary worker and then place an extra burden on the secondary worker because his or her wages come on top of the primary earner's wages.

As the American family realizes lower income levels, the nation realizes lower economic output. From a strictly economic perspective, the fact that potential workers would avoid the labor force as a result of a tax penalty is a clear sign of a failure to maximize true economic output. As a result, the nation as a whole fails to reach its economic potential, which is demonstrated by decreased earnings and international competitiveness.

Whereas I am very disappointed President Clinton has vetoed this initiative in the past, I am confident our new President will support America's families.

Congress has momentum considering this body has already passed this legislation to correct this inequity. I encourage my colleagues to support this legislation to repeal the marriage penalty.

By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. ROCKEFELLER, Mr. LEVIN, and Mr. JOHNSON):

S. 16. A bill to improve law enforcement, crime prevention, and victim assistance in the 21st century; to the Committee on the Judiciary.

21ST CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIMS ASSISTANCE ACT

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

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

S. 16

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act''.

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

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (B) and inserting after ''Nation,'' ''or pay overtime to existing career law enforcement officers;'';

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2), by striking all that follows ''SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to paragraph (1)(A) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year; grants pursuant to paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year, and grants pursuant to paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7), by inserting ''school officials, religiously affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol and illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10), by striking ''and'' at the end;

(5) in paragraph (11), by striking the period that appears at the end and inserting a semicolon; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens; and

''(13) assist State, local, or tribal prosecutors' offices in the implementation of community-based programs that build on local community efforts through the—

''(A) hiring of additional indigent defense attorneys to be assigned to community programs; and

''(B) establishment of programs to assist local indigent defense offices in the implementation of programs that help them identify and respond to priority needs of a community with specifically tailored solutions.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes,'';

(2) in paragraph (2), by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime-solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information, including non-criminal justice data, to improve their ability to analyze, predict, and respond proactively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local, or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including (but not limited to) programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun, and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint

that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(g) HIRING COSTS.—Section 1704(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–3(c)) is amended by striking ''$75,000'' and inserting ''$125,000''.

(h) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs' deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;'';

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2002;

''(ii) $1,150,000,000 for fiscal year 2003;

''(iii) $1,150,000,000 for fiscal year 2004;

''(iv) $1,150,000,000 for fiscal year 2005;

''(v) $1,150,000,000 for fiscal year 2006; and

''(vi) $1,150,000,000 for fiscal year 2007.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''85 percent'' and inserting ''$600,000,000''; and

(C) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(f), and $200,000,000 to grants for the purposes specified in section 1701(g).''.

Subtitle B—Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

SEC. 1201. EXPANSION OF PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES FROM MURDER DUE TO THEIR STATUS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting ''or because of the status of the victim as such an officer or employee,'' after ''on account of the performance of official duties,''; and

(2) by inserting ''or, if the person assisting is an officer or employee of a State or local government, because of the status of the victim as such an officer or employee,'' after ''on account of that assistance,''.

SEC. 1202. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''three'' and inserting ''12''; and

(2) in subsection (b), by striking ''ten'' and inserting ''20''.

SEC. 1203. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking ''five'' and inserting ''10''; and

(2) by striking ''three'' and inserting ''6''.

SEC. 1204. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''; and

(3) in subsection (d), as so designated, by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 1205. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

SEC. 1206. KILLING PERSONS AIDING FEDERAL INVESTIGATIONS OR STATE CORRECTIONAL OFFICERS.

Section 1121(a)(1) of title 18, United States Code, is amended in the matter preceding subparagraph (A), by inserting '', State, or joint Federal-State'' after ''a Federal''.

SEC. 1207. KILLING STATE CORRECTIONAL OFFICERS.

Section 1121(b)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the incarcerated person is incarcerated pending an initial appearance, arraignment, trial, or appeal for an offense against the United States.''.

SEC. 1208. ESTABLISHMENT OF PROTECTIVE FUNCTION PRIVILEGE.

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

(1) The physical safety of the Nation's top elected officials is a public good of transcendent importance.

(2) By virtue of the critical importance of the Office of the President, the President and those in direct line of the Presidency are subject to unique and mortal jeopardy—jeopardy that in turn threatens profound disruption to our system of representative government and to the security and future of the Nation.

(3) The physical safety of visiting heads of foreign states and foreign governments is also a matter of paramount importance. The assassination of such a person while on American soil could have calamitous consequences for our foreign relations and national security.

(4) Given these grave concerns, Congress has provided for the Secret Service to protect the President and those in direct line of the Presidency, and has directed that these officials may not waive such protection. Congress has also provided for the Secret Service to protect visiting heads of foreign states and foreign governments.

(5) The protective strategy of the Secret Service depends critically on the ability of its personnel to maintain close and unremitting physical proximity to the protectee.

(6) Secret Service personnel must remain at the side of the protectee on occasions of confidential conversations and, as a result,

may overhear top secret discussions, diplomatic exchanges, sensitive conversations, and matters of personal privacy.

(7) The necessary level of proximity can be maintained only in an atmosphere of complete trust and confidence between the protectee and his or her protectors.

(8) If a protectee has reason to doubt the confidentiality of actions or conversations taken in sight or hearing of Secret Service personnel, the protectee may seek to push the protective envelope away or undermine it to the point at which it could no longer be fully effective.

(9) The possibility that Secret Service personnel might be compelled to testify against their protectees could induce foreign nations to refuse Secret Service protection in future state visits, making it impossible for the Secret Service to fulfill its important statutory mission of protecting the life and safety of foreign dignitaries.

(10) A privilege protecting information acquired by Secret Service personnel while performing their protective function in physical proximity to a protectee will preserve the security of the protectee by lessening the incentive of the protectee to distance Secret Service personnel in situations in which there is some risk to the safety of the protectee.

(11) Recognition of a protective function privilege for the President and those in direct line of the Presidency, and for visiting heads of foreign states and foreign governments, will promote sufficiently important interests to outweigh the need for probative evidence.

(12) Because Secret Service personnel retain law enforcement responsibility even while engaged in their protective function, the privilege must be subject to a crime/treason exception.

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

(1) to facilitate the relationship of trust and confidence between Secret Service personnel and certain protected officials that is essential to the ability of the Secret Service to protect these officials, and the Nation, from the risk of assassination; and

(2) to ensure that Secret Service personnel are not precluded from testifying in a criminal investigation or prosecution about unlawful activity committed within their view or hearing.

(c) ADMISSIBILITY OF INFORMATION ACQUIRED BY SECRET SERVICE PERSONNEL WHILE PERFORMING THEIR PROTECTIVE FUNCTION.—

(1) PROTECTIVE FUNCTION PRIVILEGE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

"§ 3056A. Testimony by Secret Service personnel; protective function privilege

''(a) DEFINITIONS.—In this section:

''(1) PROTECTEE.—The term 'protectee' means—

''(A) the President;

''(B) the Vice President (or other officer next in the order of succession to the Office of President);

''(C) the President-elect;

''(D) the Vice President-elect; and

''(E) visiting heads of foreign states or foreign governments who, at the time and place concerned, are being provided protection by the United States Secret Service.

''(2) SECRET SERVICE PERSONNEL.—The term 'Secret Service personnel' means any officer or agent of the United States Secret Service.

''(b) GENERAL RULE OF PRIVILEGE.—Subject to subsection (c), testimony by Secret Service personnel or former Secret Service personnel regarding information affecting a protectee that was acquired during the performance of a protective function in physical proximity to the protectee shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof.

''(c) EXCEPTIONS.—There is no privilege under this section—

''(1) with respect to information that, at the time the information was acquired by Secret Service personnel, was sufficient to provide reasonable grounds to believe that a crime had been, was being, or would be committed; or

''(2) if the privilege is waived by the protectee or the legal representative of a protectee or deceased protectee.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3056 the following:

''3056A. Testimony by Secret Service personnel; protective function privilege.''.

(3) APPLICATION.—This section and the amendments made by this section shall apply to any proceeding commenced on or after the date of enactment of this section.

Subtitle C—Disarming Felons and Protecting Children From Violence

PART 1—EXTENSION OF PROJECT EXILE

SEC. 1311. AUTHORIZATION OF FUNDING FOR ADDITIONAL STATE AND LOCAL GUN PROSECUTORS.

(a) GRANTS FOR STATE AND LOCAL GUN PROSECUTORS.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by adding at the end the following:

"Subtitle Y—Grants for State and Local Gun Prosecutors

"SEC. 32501. GRANT AUTHORIZATION.

''The Attorney General may award grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs for the prosecution of firearm-related crimes.

"SEC. 32502. USE OF FUNDS.

''Grants awarded by the Attorney General under this subtitle shall be used to fund programs for the hiring of prosecutors and related personnel under which those prosecutors and personnel shall utilize an interdisciplinary team approach to prevent, reduce, and respond to firearm-related crimes in partnership with communities.

"SEC. 32503. APPLICATIONS.

''(a) ELIGIBILITY.—To be eligible to receive a grant award under this subtitle for a fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require.

''(b) REQUIREMENTS.—Each application submitted under this section shall include—

''(1) a request for funds for the purposes described in section 32502;

''(2) a description of the communities to be served by the grant, including the nature of the firearm-related crime in such communities; and

''(3) assurances that Federal funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section.

"SEC. 32504. MATCHING REQUIREMENT.

''The Federal share of a grant awarded under this subtitle may not exceed 50 percent of the total cost of the program described in the application submitted under section 32503 for the fiscal year for which the program receives assistance under this subtitle.

"SEC. 32505. AWARD OF GRANTS.

''(a) IN GENERAL.—Except as provided in subsection (b), in awarding grants under this subtitle, the Attorney General shall consider—

''(1) the demonstrated need for, and the evidence of the ability of the applicant to provide, the services described in section 32503(b)(2), as described in the application submitted under section 32503;

''(2) the extent to which, as reflected in the 1998 Uniform Crime Report of the Federal Bureau of Investigation, there is a high rate of firearm-related crime in the jurisdiction of the applicant, measured either in total or per capita;

''(3) the extent to which the jurisdiction of the applicant has experienced an increase in the total or per capita rate of firearm-related crime, as reported in the 3 most recent annual Uniform Crime Reports of the Federal Bureau of Investigation;

''(4) the extent to which State and local law enforcement agencies in the jurisdiction of the applicant have pledged to cooperate with Federal officials in responding to the illegal acquisition, distribution, possession, and use of firearms within the jurisdiction; and

''(5) The extent to which the jurisdiction of the applicant participates in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Ceasefire.

''(b) INDIAN TRIBES.—

''(1) FEDERAL GRANTS.—Not less than 5 percent of the amount made available for grants under this subtitle for each fiscal year shall be awarded as grants to Indian tribes.

''(2) GRANT CRITERIA.—In awarding grants to Indian tribes in accordance with this subsection, the Attorney General shall consider, to the extent practicable, the factors for consideration set forth in subsection (a).

''(c) RESEARCH AND EVALUATION.—Of the amount made available for grants under this subtitle for each fiscal year, the Attorney General shall use not less than 1 percent and not more than 3 percent for research and evaluation of the activities carried out with grants awarded under this subtitle.

"SEC. 32506. REPORTS.

''(a) REPORT TO ATTORNEY GENERAL.—Not later than March 1 of each fiscal year, each law enforcement agency that receives funds from a grant awarded under this subtitle for that fiscal year shall submit to the Attorney General a report describing the progress achieved in carrying out the grant program for which those funds were received.

''(b) REPORT TO CONGRESS.—Beginning not later than October 1 of the first fiscal year following the initial fiscal year during which grants are awarded under this subtitle, and not later than October 1 of each fiscal year thereafter, the Attorney General shall submit to Congress a report, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established with amounts from grants awarded under this subtitle during the preceding fiscal year.

"SEC. 32507. DEFINITIONS.

''In this subtitle—

''(1) the term 'firearm' has the meaning given the term in section 921(a) of title 18, United States Code;

''(2) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized

group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

''(3) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

''SEC. 32508. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 2002.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 2 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting after the item relating to subtitle X the following:

''Subtitle Y—Grants for State and Local Gun Prosecutors

''Sec. 32501. Grant authorization.
''Sec. 32502. Use of funds.
''Sec. 32503. Applications.
''Sec. 32504. Matching requirement.
''Sec. 32505. Award of grants.
''Sec. 32506. Reports.
''Sec. 32507. Definitions.
''Sec. 32508. Authorization of appropriations.''.

SEC. 1312. AUTHORIZATION OF FUNDING FOR ADDITIONAL FEDERAL FIREARMS PROSECUTORS AND GUN ENFORCEMENT TEAMS.

(a) ADDITIONAL FEDERAL FIREARMS PROSECUTORS.—The Attorney General shall hire 114 additional Federal prosecutors to prosecute violations of Federal firearms laws.

(b) GUN ENFORCEMENT TEAMS.—

(1) ESTABLISHMENT.—The Attorney General shall establish in each of the jurisdictions specified in paragraph (3) a gun enforcement team.

(2) GUN ENFORCEMENT TEAM REQUIREMENTS.—Each gun enforcement team established under this subsection shall be composed of—

(A) 1 coordinator, who shall be responsible, with respect to the jurisdiction concerned, for coordinating among Federal, State, and local law enforcement—

(i) the appropriate forum for the prosecution of crimes relating to firearms; and

(ii) efforts for the prevention of such crimes; and

(B) 1 analyst, who shall be responsible, with respect to the jurisdiction concerned, for analyzing data relating to such crimes and recommending law enforcement strategies to reduce such crimes.

(3) COVERED JURISDICTIONS.—The jurisdictions specified in this subsection are not more than 20 jurisdictions designated by the Attorney General for purposes of this subsection as areas having high rates of crimes relating to firearms.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated that may be used for such purpose, there is authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2002.

PART 2—EXPANSION OF THE YOUTH CRIME GUN INTERDICTION INITIATIVE

SEC. 1321. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF CITIES.—The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the ''YCGII'') to 75 cities or counties by October 1, 2002, to 150 cities or counties by October 1, 2004, and to 250 cities or counties by October 1, 2005.

(2) SELECTION.—Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b) IDENTIFICATION OF INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to prohibited individuals.

(2) SHARING OF INFORMATION.—The Secretary of the Treasury shall share information derived from the YCGII with State and local law enforcement agencies through online computer access, as soon as such capability is available.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) USE OF GRANT FUNDS.—Grants made under this part shall be used to—

(A) hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

PART 3—GUN OFFENSES

SEC. 1331. GUN BAN FOR DANGEROUS JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(20)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) For purposes of subsections (d), (g), and (s) of section 922, the term 'act of juvenile delinquency' means an adjudication of delinquency based on a finding of the commission of an act by a person prior to his or her eighteenth birthday that, if committed by an adult, would be a serious drug offense or violent felony (as defined in section 3559(c)(2) of this title), on or after the date of enactment of this paragraph.''; and

(4) by striking ''What constitutes'' through the end and inserting the following: ''What constitutes a conviction of such a crime or an adjudication of juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of delinquency which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency occurred shall not be considered a conviction or adjudication of delinquency.

(b) PROHIBITION.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of juvenile delinquency.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of juvenile delinquency.'';

(3) in subsection (s)(3)(B)—

(A) by striking ''and'' at the end of clause (vi);

(B) by inserting ''and'' after the semicolon at the end of clause (vii); and

(C) by inserting after clause (vii) the following:

''(viii) has not committed an act of juvenile delinquency.''.

SEC. 1332. IMPROVING FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) SECURE GUN STORAGE OR SAFETY DEVICE.—The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(1) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(2) as establishing any standard of care.

SEC. 1333. JUVENILE HANDGUN SAFETY.

(a) JUVENILE HANDGUN SAFETY.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A); and

(3) in subparagraph (A), as redesignated—

(A) by striking ''A person other than a juvenile who knowingly'' and inserting ''A person who knowingly''; and

(B) in clause (i), by striking ''not more than 1 year'' and inserting ''not more than 5 years''.

SEC. 1334. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in this paragraph;''.

SEC. 1335. INCREASED PENALTY FOR TRANSFERRING A FIREARM TO A MINOR FOR USE IN CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(h) of title 18, United States Code, is amended by striking ''10 years, fined in accordance with this title, or both'' and inserting ''10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not more than 15 years, fined in accordance with this title, or both''.

SEC. 1336. INCREASED PENALTY FOR FIREARMS CONSPIRACY.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

''(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy.''.

Part 4—CLOSING THE GUN SHOW LOOPHOLE

SEC. 1341. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) FINDINGS.—Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

(b) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) GUN SHOW.—The term 'gun show' means any event—

''(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

''(B) at which—

''(i) not less than 20 percent of the exhibitors are firearm exhibitors;

''(ii) there are not less than 10 firearm exhibitors; or

''(iii) 50 or more firearms are offered for sale, transfer, or exchange.

''(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

''(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.''

(c) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Regulation of firearms transfers at gun shows

''(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

''(2) pays a registration fee, in an amount determined by the Secretary.

''(b) RESPONSIBILITIES OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

''(2) before commencement of the gun show, requires each gun show vendor to sign—

''(A) a ledger with identifying information concerning the vendor; and

''(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

''(3) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe; and

''(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

''(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Secretary to impose recordkeeping requirements on any nonlicensed vendor.

''(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

''(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(2) record the transfer on a form specified by the Secretary;

''(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

''(A) of such compliance; and

''(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

''(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(A) shall be on a form specified by the Secretary by regulation; and

''(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

''(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

''(A) prepared on a form specified by the Secretary; and

''(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

''(i) the office specified on the form described in subparagraph (A); and

''(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

''(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

''(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(1) shall be in a form specified by the Secretary by regulation;

''(2) shall not include the name of or other identifying information relating to the transferee; and

''(3) shall not duplicate information provided in any report required under subsection (e)(4).

''(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction'—

''(1) includes the offer for sale, sale, transfer, or exchange of a firearm; and

''(2) does not include the mere exhibition of a firearm.''.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

''(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(C) Whoever willfully violates section 931(d), shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

''(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

''(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

''(ii) impose a civil fine in an amount equal to not more than $10,000.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

''931. Regulation of firearms transfers at gun shows.'';

and

(B) in the first sentence of section 923(j), by striking ''a gun show or event'' and inserting ''an event''; and

(d) INSPECTION AUTHORITY.—Section 923(g)(1) is amended by adding at the end the following:

''(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.''.

(e) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

''(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

''(B) If the violation described in subparagraph (A) is in relation to an offense—

''(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

''(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.''.

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

(1) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ''subsection (s) or (t) of section 922'' and inserting ''section 922(s)''; and

(B) by adding at the end the following:

''(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.''.

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 922(t)(5) of title 18, United States Code, is amended by striking ''and, at the time'' and all that follows through ''State law''.

(g) GUN OWNER PRIVACY AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting before the period at the end the following: '', as soon as possible, consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer''.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Subtitle D—Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

SEC. 1401. JUVENILE AND VIOLENT OFFENDER INCARCERATION GRANTS.

(a) GRANTS FOR VIOLENT AND CHRONIC JUVENILE FACILITIES.—

(1) DEFINITIONS.—In this subsection:

(A) CO-LOCATED FACILITY.—The term ''co-located facility'' means the location of adult and juvenile facilities on the same property in a manner consistent with regulations issued by the Attorney General to ensure that adults and juveniles are substantially segregated.

(B) SUBSTANTIALLY SEGREGATED.—The term ''substantially segregated'' means—

(i) complete sight and sound separation in residential confinement;

(ii) use of shared direct care and management staff, properly trained and certified by the State to interact with juvenile offenders, if the staff does not interact with adult and juvenile offenders during the same shift; and

(iii) incidental contact during transportation to court proceedings and other activities in accordance with regulations issued by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles.

(C) VIOLENT JUVENILE OFFENDER.—The term ''violent juvenile offender'' means a person under the age of majority pursuant to State law who has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 924(e)(2)(B) of title 18, United States Code.

(D) QUALIFYING STATE.—The term ''qualifying State'' means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of paragraphs (3) and (5).

(2) AUTHORITY.—

(A) IN GENERAL.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

(B) USE OF AMOUNTS.—Grants under this subsection may be used—

(i) for co-located facilities for adult prisoners and violent juvenile offenders; and

(ii) only for the construction or operation of facilities in which violent juvenile offenders are substantially segregated from nonviolent juvenile offenders.

(3) APPLICATIONS.—

(A) IN GENERAL.—The chief executive officer of a State or unit of local government that seeks to receive a grant under this subsection shall submit to the Attorney General an application, in such form and in such manner as the Attorney General may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall provide written assurances that each facility or program funded with a grant under this subsection—

(i) will provide appropriate educational and vocational training, appropriate mental health services, a program of substance abuse testing, and substance abuse treatment for appropriate juvenile offenders; and

(ii) will afford juvenile offenders intensive post-release supervision and services.

(4) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each qualifying State, together with units of local government within the State, shall be allocated for each fiscal year not less than 1.0 percent of the total amount made available in each fiscal year for grants under this subsection.

(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.2 percent of the total amount made available in each fiscal year for grants under this subsection.

(5) PERFORMANCE EVALUATION.—

(A) EVALUATION COMPONENTS.—

(i) IN GENERAL.—Each facility or program funded under this subsection shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(ii) OUTCOME MEASURES.—The evaluations required by this subsection shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism, and other outcome measures.

(B) PERIODIC REVIEW AND REPORTS.—

(i) REVIEW.—The Attorney General shall review the performance of each grant recipient under this subsection.

(ii) REPORTS.—The Attorney General may require a grant recipient to submit to the Office of Justice Programs, Corrections Programs Office the results of the evaluations required under subparagraph (A) and such other data and information as are reasonably necessary to carry out the responsibilities of the Attorney General under this subsection.

(6) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training to grant recipients under this subsection to achieve the purposes of this subsection.

(b) JUVENILE FACILITIES ON TRIBAL LANDS.—

(1) RESERVATION OF FUNDS.—Of amounts made available to carry out this section under section 20108(a)(2)(A) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(a)(2)(A)), the Attorney General shall reserve, to carry out this subsection, 0.75 percent for each of fiscal years 2002 through 2005.

(2) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General may make grants to Indian tribes or to regional groups of Indian tribes for the purpose of constructing secure facilities, staff-secure facilities, detention centers, and other correctional programs for incarceration of juvenile offenders subject to tribal jurisdiction.

(3) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(4) REGIONAL GROUPS.—Individual Indian tribes from a geographic region may apply for grants under paragraph (2) jointly for the purpose of building regional facilities.

(c) REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(2) CONTENTS.—The report required under this subsection shall include an analysis of—

(A) the range of performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in facilities or have participated in correctional programs;

(B) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of a program or facility);

(C) whether, and to what extent, the data necessary for the Attorney General to utilize performance-based criteria in the Attorney General's administration of juvenile corrections programs are collected and reported nationally; and

(D) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating juvenile corrections programs and facilities and administering Federal juvenile corrections funds.

SEC. 1402. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follows a progression, beginning with aggressive behavior in school, truancy, and vandalism, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are ill-equipped to provide meaningful sanctions to minor, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the severity of the sanctions increase along with the seriousness of the offense.

(2) PURPOSES.—The purposes of this section are to provide—

(A) assistance to State and local juvenile courts to expand the range of sentencing options for first time, nonviolent offenders; and

(B) a selection of graduated sanctions for more serious offenses.

(b) DEFINITIONS.—In this section:

(1) FIRST TIME OFFENDER.—The term ''first time offender'' means a juvenile against whom formal charges have not previously been filed in any Federal or State judicial proceeding.

(2) NONVIOLENT OFFENDER.—The term ''nonviolent offender'' means a juvenile who is charged with an offense that does not involve the use of force against the person of another.

(3) STATUS OFFENDER.—The term ''status offender'' means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code (or similar State law)).

(c) GRANT AUTHORIZATION.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purposes of—

(1) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(2) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(A) as the seriousness of their unlawful conduct increases; and

(B) for each additional offense.

(d) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) (in this section referred to as the ''comprehensive plan''); and

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the applicant will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan for evaluating the impact of the grant on the jurisdiction's juvenile justice system.

(e) GRANT AWARDS.—

(1) CONSIDERATIONS.—In awarding grants under this section, the Attorney General shall consider—

(A) the ability of the applicant to provide the stated services;

(B) the level of youth crime, violence, and drug use in the community; and

(C) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(2) ALLOCATIONS.—

(A) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants in each State from which applicants have applied for grants under this section.

(B) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to Indian tribes.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Each grant made under this section shall be used to establish programs that—

(A) expand the number of judges, prosecutors, and public defenders for the purpose of imposing sanctions on first time juvenile offenders and status offenders and for establishing restorative justice boards involving members of the community;

(B) provide expanded sentencing options, such as restitution, community service, drug testing and treatment, mandatory job training, curfews, house arrest, mandatory work projects, and boot camps, for status offenders and nonviolent offenders;

(C) increase staffing for probation officers to supervise status offenders and nonviolent offenders to ensure that sanctions are enforced;

(D) provide aftercare and supervision for status and nonviolent offenders, such as drug education and drug treatment, vocational training, job placement, and family counseling;

(E) encourage private sector employees to provide training and work opportunities for status offenders and nonviolent offenders; and

(F) provide services and interventions for status and nonviolent offenders designed, in tandem with criminal sanctions, to reduce the likelihood of further criminal behavior.

(2) PROHIBITION ON USE OF AMOUNTS.—

(A) DEFINITIONS.—In this paragraph:

(i) ALIEN.—The term ''alien'' has the same meaning as in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(ii) SECURE DETENTION FACILITY; SECURE CORRECTIONAL FACILITY.—The terms ''secure detention facility'' and ''secure correctional facility'' have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(B) PROHIBITION.—No amounts made available under this subtitle may be used for any program that permits the placement of status offenders, alien juveniles in custody, or nonoffender juveniles (such as dependent, abused, or neglected children) in secure detention facilities or secure correctional facilities.

(g) GRANT LIMITATIONS.—Not more than 3 percent of the amounts made available to the Attorney General or a grant recipient under this section may be used for administrative purposes.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of a grant made under this section may not exceed 90 percent of the total estimated costs of the program described in the comprehensive plan submitted under subsection (d)(3) for the fiscal year for which the program receives assistance under this section.

(2) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of paragraph (1).

(3) IN-KIND CONTRIBUTIONS.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(i) REPORT AND EVALUATION.—

(1) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 2002, and October 1 of each year thereafter, each grant recipient under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 2003, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) a comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those who do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient; and

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient.

(4) DOCUMENTS AND INFORMATION.—Each grant recipient under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of fiscal years 2002 and 2003; and

(2) $175,000,000 for each of fiscal years 2004 and 2005.

SEC. 1403. PILOT PROGRAM TO PROMOTE REPLICATION OF RECENT SUCCESSFUL JUVENILE CRIME REDUCTION STRATEGIES.

(a) PILOT PROGRAM TO PROMOTE REPLICATION OF RECENT SUCCESSFUL JUVENILE CRIME REDUCTION STRATEGIES.—

(1) ESTABLISHMENT.—The Attorney General (or a designee of the Attorney General), in conjunction with the Secretary of the Treasury (or the designee of the Secretary), shall establish a pilot program (in this section referred to as the ''program'') to encourage and support communities that adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after successful State juvenile crime reduction strategies.

(2) PROGRAM.—In carrying out the program, the Attorney General shall—

(A) make and track grants to grant recipients (in this section referred to as ''coalitions'');

(B) in conjunction with the Secretary of the Treasury, provide for technical assistance and training, data collection, and dissemination of relevant information; and

(C) provide for the general administration of the program.

(3) ADMINISTRATION.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the ''Administrator'') to carry out the program.

(4) PROGRAM AUTHORIZATION.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(A) COMPOSITION.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious affiliated or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups; and

(x) social service agencies involved in crime prevention.

(B) OTHER PARTICIPANTS.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

(ii) researchers who have studied criminal justice and can offer technical or other assistance.

(C) COORDINATED STRATEGY.—A coalition shall submit to the Attorney General, or the Attorney General's designee, a comprehensive plan for reducing violent juvenile crime. To be eligible for consideration, a plan shall—

(i) ensure close collaboration among all members of the coalition in suppressing and preventing juvenile crime;

(ii) place heavy emphasis on coordinated enforcement initiatives, such as Federal and State programs that coordinate local police departments, prosecutors, and local community leaders to focus on the suppression of violent juvenile crime involving gangs;

(iii) ensure that there is close collaboration between police and probation officers in the supervision of juvenile offenders, such as initiatives that coordinate the efforts of parents, school officials, and police and probation officers to patrol the streets and make home visits to ensure that offenders comply with the terms of their probation;

(iv) ensure that a program is in place to trace all firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers; and

(v) ensure that effective crime prevention programs are in place, such as programs that provide after-school safe havens and other opportunities for at-risk youth to escape or avoid gang or other criminal activity, and to reduce recidivism.

(D) ACCOUNTABILITY.—A coalition shall—

(i) establish a system to measure and report outcomes consistent with common indicators and evaluation protocols established by the Administrator and which receives the approval of the Administrator; and

(ii) devise a detailed model for measuring and evaluating the success of the plan of the coalition in reducing violent juvenile crime, and provide assurances that the plan will be evaluated on a regular basis to assess progress in reducing violent juvenile crime.

(5) GRANT AMOUNTS.—

(A) IN GENERAL.—The Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

(B) NONSUPPLANTING REQUIREMENT.—A coalition seeking funds shall provide reasonable assurances that funds made available under this program to States or units of local government shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for programs described in this section, and shall in no event replace such State, local, or other non-Federal funds.

(C) SUSPENSION OF GRANTS.—If a coalition fails to continue to meet the criteria set forth in this section, the Administrator may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

(D) RENEWAL GRANTS.—Subject to subparagraph (E), the Administrator may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year, during the 4-year period following the period of the initial grant.

(E) LIMITATION.—The amount of a grant award under this section may not exceed $300,000 for a fiscal year.

(6) PERMITTED USE OF FUNDS.—A coalition receiving funds under this section may expend such Federal funds on any use or program that is contained in the plan submitted to the Administrator.

(7) CONGRESSIONAL CONSULTATION.—Two years after the date of implementation of the program established in this section, the General Accounting Office shall submit a report to Congress reviewing the effectiveness of the program in suppressing and reducing violent juvenile crime in the participating communities. The report shall contain an analysis of each community participating in the program, along with information regarding the plan undertaken in the community, and the effectiveness of the plan in reducing violent juvenile crime. The report shall contain recommendations regarding the efficacy of continuing the program.

(b) INFORMATION COLLECTION AND DISSEMINATION WITH RESPECT TO COALITIONS.—

(1) COALITION INFORMATION.—For the purpose of audit and examination, the Administrator—

(A) shall have access to any books, documents, papers, and records that are pertinent to any grant or grant renewal request under this section; and

(B) may periodically request information from a coalition to ensure that the coalition meets the applicable criteria.

(2) REPORTING.—The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a coalition and expedite any application for a renewal grant made under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section, $3,000,000 in each of fiscal years 2002, 2003, and 2004.

SEC. 1404. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIEN OFFENDERS.

(a) IN GENERAL.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a), by inserting ''or illegal juvenile alien who has been adjudicated delinquent and committed to a juvenile correctional facility by such State or locality'' before the period;

(2) in subsection (b), by inserting ''(including any juvenile alien who has been adjudicated delinquent and has been committed to a correctional facility)'' before ''who is in the United States unlawfully''; and

(3) by adding at the end the following:

''(f) JUVENILE ALIEN DEFINED.—In this section, the term 'juvenile alien' means an alien (as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1103)) who has been adjudicated delinquent and committed to a correctional facility by a State or locality as a juvenile offender.''.

Subtitle E—Ballistics, Law Assistance, and Safety Technology

SEC. 1501. SHORT TITLE.

This subtitle may be cited as the ''Ballistics, Law Assistance, and Safety Technology Act'' (''BLAST'').

SEC. 1502. PURPOSES.

The purposes of this subtitle are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 1503. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.''.

SEC. 1504. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

''(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

''(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

''(C) make the records available to the Secretary for entry in a computerized database; and

''(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

''(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

''(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

''(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

''(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

''(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

''(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

''(v) any other steps necessary to make ballistics testing effective.

''(B) The Attorney General and the Secretary shall—

''(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such a capability is available; and

''(ii) encourage training for all ballistics examiners.

''(4) Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

''(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool;

''(B) the extent to which ballistics records are accessible across jurisdictions; and

''(C) a statistical evaluation of the test programs conducted pursuant to section 1506 of the Ballistics, Law Assistance, and State Technology Act.

''(5) There is authorized to be appropriated to the Department of Justice and the Department of the Treasury for each of fiscal years 2002 through 2005, $20,000,000 to carry out this subsection, including—

''(A) installation of ballistics equipment and bullet recovery equipment;

''(B) establishment of sites for ballistics testing;

''(C) salaries and expenses of necessary personnel; and

''(D) research and evaluation.

''(6) The Secretary and the Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 1505. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for—

(1) prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime; or

(2) the creation of a national firearms registry of gun owners.

SEC. 1506. DEMONSTRATION FIREARM CRIME REDUCTION STRATEGY.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury and the Attorney General shall establish in the jurisdictions selected under subsection (c), a comprehensive firearm crime reduction strategy that meets the requirements of subsection (b).

(b) PROGRAM ELEMENTS.—Each program established under subsection (a) shall, for the jurisdiction concerned—

(1) provide for ballistics testing, in accordance with criteria set forth by the National Integrated Ballistics Information Network, of all firearms recovered during criminal investigations, in order to—

(A) identify the types and origins of the firearms;

(B) identify suspects; and

(C) link multiple crimes involving the same firearm;

(2) require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury, in order to identify the types and origins of the firearms and to identify illegal firearms traffickers;

(3) provide for coordination among Federal, State, and local law enforcement officials, firearm examiners, technicians, laboratory personnel, investigators, and prosecutors in the tracing and ballistics testing of firearms and the investigation and prosecution of firearms-related crimes including illegal firearms trafficking; and

(4) require analysis of firearm tracing and ballistics data in order to establish trends in firearm-related crime and firearm trafficking.

(c) PARTICIPATING JURISDICTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Attorney General shall select not fewer than 10 jurisdictions for participation in the program under this section.

(2) CONSIDERATIONS.—In selecting jurisdictions under this subsection, the Secretary of the Treasury and the Attorney General shall give priority to jurisdictions that—

(A) participate in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Ceasefire;

(B) draft a plan to share ballistics records with nearby jurisdictions that require ballistics testing of firearms recovered during criminal investigations; and

(C) pledge to match Federal funds for the expansion of ballistics testing on a one-on-one basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2002 through 2005, $20,000,000 to carry out this section, including—

(1) installation of ballistics equipment; and

(2) salaries and expenses for personnel (including personnel from the Department of Justice and the Bureau of Alcohol, Tobacco, and Firearms).

Subtitle F—Offender Reentry and Community Safety

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the ''Offender Reentry and Community Safety Act of 2001''.

SEC. 1602. FINDINGS.

Congress finds the following:

(1) There are now nearly 1,900,000 individuals in our country's prisons and jails, including over 140,000 individuals under the jurisdiction of the Federal Bureau of Prisons.

(2) Enforcement of offender violations of conditions of releases has sharply increased the number of offenders who return to prison—while revocations comprised 17 percent of State prison admissions in 1980, they rose to 36 percent in 1998.

(3) Although prisoners generally are serving longer sentences than they did a decade ago, most eventually reenter communities; for example, in 1999, approximately 538,000 State prisoners and over 50,000 Federal prisoners, a record number, were returned to American communities. Approximately 100,000 State offenders who returned to communities received no supervision whatsoever.

(4) Historically, two-thirds of returning State prisoners have been rearrested for new crimes within three years, so these individuals pose a significant public safety risk and a continuing financial burden to society.

(5) A key element to effective post-incarceration supervision is an immediate, predetermined, and appropriate response to violations of the conditions of supervision.

(6) An estimated 187,000 State and Federal prison inmates have been diagnosed with mental health problems; about 70 percent of State prisoners and 57 percent of Federal prisoners have a history of drug use or abuse; and nearly 75 percent of released offenders with heroin or cocaine problems return to using drugs within three months if untreated; however, few States link prison mental health treatment programs with those in the return community.

(7) Between 1987 and 1997, the volume of juvenile adjudicated cases resulting in court-ordered residential placements rose 56 percent. In 1997 alone, there were a total of 163,200 juvenile court-ordered residential placements. The steady increase of youth exiting residential placement has strained the juvenile justice aftercare system, however, without adequate supervision and services, youth are likely to relapse, recidivate, and return to confinement at the public's expense.

(8) Emerging technologies and multidisciplinary community-based strategies present new opportunities to alleviate the public safety risk posed by released prisoners while helping offenders to reenter their communities successfully.

SEC. 1603. PURPOSES.

The purposes of this subtitle are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, using new strategies and emerging technologies that alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into the community;

(2) establish court-based programs to monitor the return of offenders into communities, using court sanctions to promote positive behavior;

(3) establish offender reentry demonstration projects in the states using government and community partnerships to coordinate cost efficient strategies that ensure public safety and enhance the successful reentry into communities of offenders who have completed their prison sentences;

(4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders by coordinating the resources of juvenile correctional agencies, juvenile courts, juvenile parole agencies, law enforcement agencies, social service providers, and local Workforce Investment Boards; and

(5) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

PART 1—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 1611. FEDERAL REENTRY CENTER DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) a Reentry Review Team for each prisoner, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and incorporating victim impact information, and will thereafter meet regularly to monitor the prisoner's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) regular drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner's minor or technical violation of the conditions of participation in the project;

(4) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as advisers and mentors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of offenders' reentry plan.

(c) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign one or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(d) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not

later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participant prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Attorney General, in consultation with the Judicial Conference of the United States, shall select an appropriate number of Federal judicial districts in which to carry out the Reentry Center Demonstration project.

(f) COORDINATION OF PROJECTS.—The Attorney General, may, if appropriate, include in the Reentry Center Demonstration project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 1615 of this Act.

SEC. 1612. FEDERAL HIGH-RISK OFFENDER REENTRY DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, shall establish the Federal High-Risk Offender Reentry Demonstration project. The project shall involve Federal offenders under supervised release who have previously violated the terms of their release following a term of imprisonment and shall utilize, as appropriate and indicated, community corrections facilities, home confinement, appropriate monitoring technologies, and treatment and programming to promote more effective reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by Federal prisoners who have previously violated the terms of their release following a term of imprisonment;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5), will be part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programming to promote effective reintegration into the community as appropriate;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim(s), especially in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated a previously imposed term of supervised release and who will be subject to some additional term of supervised release, shall be designated to participate in the demonstration project. With respect to these offenders, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in the project.

(d) PROJECT DURATION.—The Federal High-Risk Offender Reentry Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to six months to enable participating prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal High-Risk Offender Reentry Demonstration project.

SEC. 1613. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. The project shall involve high risk District of Columbia parolees who would otherwise be released into the community without a period of confinement in a community corrections facility and shall utilize intensive supervision, monitoring, and programming to promote such parolees' successful reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement;

(3) a Reentry Review Team that includes a victim witness professional for each parolee which shall meet with the parolee—by video conference or other means as appropriate—before the parolee's release from the custody of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereafter meet regularly to monitor the parolee's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(4) regular drug testing, as appropriate;

(5) a system of graduated levels of supervision within the community corrections facility to promote community safety, encourage victim restitution, provide incentives for prisoners to complete the reentry plan, and provide a reasonable method for immediately sanctioning a prisoner's minor or technical violation of the conditions of participation in the project;

(6) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed and indicated;

(7) the use of monitoring technologies, as appropriate;

(8) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based communities, to serve as advisers and mentors to prisoners being released into the community; and

(9) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF PAROLE.—For those offenders eligible to participate in the demonstration project, the United States Parole Commission shall impose additional mandatory conditions of parole such that the offender when on parole shall, as directed by the community supervision officer, reside at a community corrections facility or participate in a program of home confinement, or both, submit to electronic and other remote monitoring, and otherwise participate in the project.

(d) PROGRAM DURATION.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Trustee of the Court Services and Offender Supervision Agency of the District of Columbia may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 1614. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall establish the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED iSTART) project. The project shall involve appropriate high risk Federal offenders who are being released into the community without a period of confinement in a community corrections facility.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a prisoner's reentry plan.

(c) PROGRAM DURATION.—The Federal Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to six months to enable participating prisoners to complete their involvement in the project.

(d) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 1615. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project in selected institutions. The project shall provide in-prison assessments of prisoners' vocational needs and aptitudes, enhanced work skills development, enhanced release readiness programming, and other components as appropriate to prepare Federal prisoners for release and reentry into the community.

(b) PROGRAM DURATION.—The Enhanced In-Prison Vocational Assessment and Training

Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 1616. RESEARCH AND REPORTS TO CONGRESS.

(a) ATTORNEY GENERAL.—Not later than 2 years after the enactment of this Act, the Attorney General shall report to Congress on the progress of the demonstration projects authorized by sections 1611 and 1615. Not later than 1 year after the end of the demonstration projects authorized by sections 1611 and 1615, the Director of the Federal Bureau of Prisons shall report to Congress on the effectiveness of the reentry projects authorized by sections 1611 and 1615 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 2 years after the enactment of this Act, Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the demonstration projects authorized by sections 1612 and 1614. Not later than 180 days after the end of the demonstration projects authorized by sections 1612 and 1614, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 1612 and 1614 on post-release outcomes and recidivism. The report should address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(c) DC ISTART.—Not later than 2 years after the enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 1613 of this Act. Not later than 1 year after the end of the demonstration project authorized by section 1613, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 1613 of this Act on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of three years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate. In the event that the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) is not in operation 1 year after the enactment of this Act, the Director of the National Institute of Justice shall prepare and submit the reports required by this section and may do so from funds made available to the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712).

SEC. 1617. DEFINITIONS.

In this part—

(1) the term ''appropriate prisoner'' means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community, and

(B) to lack the skills and family support network that facilitate successful reintegration into the community; and

(2) the term ''appropriate high risk parolees'' means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 1618. AUTHORIZATION OF APPROPRIATIONS.

To carry out this part, there are authorized to be appropriated, to remain available until expended, the following amounts:

(1) To the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2002;

(B) $1,110,000 for fiscal year 2003;

(C) $1,130,000 for fiscal year 2004;

(D) $1,155,000 for fiscal year 2005; and

(E) $1,230,000 for fiscal year 2006.

(2) To the Federal Judiciary—

(A) $3,380,000 for fiscal year 2002;

(B) $3,540,000 for fiscal year 2003;

(C) $3,720,000 for fiscal year 2004;

(D) $3,910,000 for fiscal year 2005; and

(E) $4,100,000 for fiscal year 2006.

(3) To the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712)—

(A) $4,860,000 for fiscal year 2002;

(B) $4,510,000 for fiscal year 2003;

(C) $4,620,000 for fiscal year 2004;

(D) $4,740,000 for fiscal year 2005; and

(E) $4,860,000 for fiscal year 2006.

PART 2—STATE REENTRY GRANT PROGRAMS

SEC. 1621. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended, is amended by inserting after part CC the following new part:

''PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY

''SEC. 2951. ADULT OFFENDER STATE AND LOCAL REENTRY PARTNERSHIPS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Funds may be expended by the projects for the following purposes:

''(1) oversight/monitoring of released offenders;

''(2) providing returning offenders with drug and alcohol testing and treatment and mental health assessment and services;

''(3) convening community impact panels, victim impact panels or victim impact educational classes;

''(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

''(5) establishing and implementing graduated sanctions and incentives.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

''(4) describe the methodology and outcome measures that will be used in evaluating the program.

''(c) APPLICANTS.—The applicants as designated under subsection (a)—

''(1) shall prepare the application as required under subsection (b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $40,000,000 in fiscal years 2002 and 2003; and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2952. STATE AND LOCAL REENTRY COURTS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $500,000 to State and local courts or state agencies, municipalities, public agencies, nonprofit organizations, and tribes that have agreements with courts to take the lead in establishing a reentry court. Funds may be expended by the projects for the following purposes:

''(1) monitoring offenders returning to the community;

''(2) providing returning offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

''(3) convening community impact panels, victim impact panels, or victim impact educational classes;

''(4) providing and coordinating the delivery of other community services to offenders, such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

''(5) establishing and implementing graduated sanctions and incentives.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies, including existing community corrections and parole, and there will be appropriate coordination with all affected agencies in the implementation of the program;

''(4) describe the methodology and outcome measures that will be used in evaluation of the program.

''(c) APPLICANTS.—The applicants as designated under subsection (a)—

''(1) shall prepare the application as required under subsection (b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2953. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the projects for—

''(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

''(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

''(3) oversight/monitoring of released juvenile offenders; and

''(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, conflict resolution skills training, batterer intervention programs, employment training and placement, efforts to identify suitable living arrangements, family involvement and support, and other services.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies, including existing community corrections and parole, in the implementation of the program;

''(4) describe the methodology and outcome measures that will be used in evaluating the program.

''(c) APPLICANTS.—The applicants as designated under subsection (a)—

''(1) shall prepare the application as required under subsection (b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2954. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and approaches, selected evaluation of projects authorized in the preceding sections, and dissemination of information to the field.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary to carry out this section in fiscal years 2004, 2005, and 2006.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after the matter relating to part CC the following:

''PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

''Sec. 2951. Adult Offender State and Local Reentry Partnerships.

''Sec. 2952. State and Local Reentry Courts.

''Sec. 2953. Juvenile Offender State and Local Reentry Programs.

''Sec. 2954. State Reentry Program Research and Evaluation.''.

TITLE II—STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A—Combating Gang Violence

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 2101. GANG FRANCHISING.

Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.

''(a) PROHIBITED ACT.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (c).

''(b) DEFINITIONS.—In this section:

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' has the meaning given that term in section 521.

''(2) FRANCHISE.—The term 'franchise' means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce with a criminal street gang in another State.

''(c) PENALTIES.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.''.

SEC. 2102. ENHANCED PENALTY FOR USE OR RECRUITMENT OF MINORS IN GANGS.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, as amended by section 2101 of this title, is amended by adding at the end the following:

''§ 523. Sentencing enhancement for use or recruitment of minors

''Pursuant to its authority under section 994(p) of title 28, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the use of minors in a criminal street gang and the recruitment of minors in furtherance of the creation of a criminal street gang franchise.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''522. Interstate franchising of criminal street gangs.

''523. Sentencing enhancement for use or recruitment of minors.''.

SEC. 2103. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or'' before ''(F)''; and

(2) by inserting '', or (G) an offense under section 522 of this title'' before the semicolon at the end.

SEC. 2104. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term ''criminal street gang'' has the same meaning as in section 521(a) of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement with respect to any offense committed in connection with, or in furtherance of, the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2105. ENHANCED PENALTY FOR DISCHARGE OF FIREARMS IN RELATION TO COUNTS OF VIOLENCE OR DRUG TRAFFICKING CRIMES.

(a) DEFINITIONS.—In this section, the terms ''crime of violence'' and ''drug trafficking crime'' have the same meanings as in section 924(c) of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentence enhancement with respect to any defendant who discharges a firearm during or in relation to any crime of violence or any drug trafficking crime.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2106. PUNISHMENT OF ARSON OR BOMBING AT FACILITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting ''or any institution or organization receiving Federal financial assistance'' after ''or agency thereof,''.

SEC. 2107. ELIMINATION OF STATUTE OF LIMITATIONS FOR MURDER.

(a) IN GENERAL.—Section 3281 of title 18, United States Code, is amended to read as follows:

''§ 3281. Capital offenses and Class A felonies involving murder

''An indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1963(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

SEC. 2108. EXTENSION OF STATUTE OF LIMITATIONS FOR VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3296. Class A violent and drug trafficking offenses

''Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting ''and Class A felonies involving murder'' before the period; and

(2) by adding at the end the following:

''3296. Class A violent and drug trafficking offenses.''.

SEC. 2109. INCREASED PENALTIES UNDER THE RICO LAW FOR GANG AND VIOLENT CRIMES.

Section 1963(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both,'' and inserting ''or imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (other than the penalty of death) applicable to a racketeering activity on which the violation is based, or both,''.

SEC. 2110. INCREASED PENALTY AND BROADENED SCOPE OF STATUTE AGAINST VIOLENT CRIMES IN AID OF RACKETEERING.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting ''or commits any other crime of violence'' before ''or threatens to commit a crime of violence'';

(2) in paragraph (4), by inserting ''committing any other crime of violence or for'' before ''threatening to commit a crime of violence'', and by striking ''five'' and inserting ''ten'';

(3) in paragraph (5), by striking ''for not more than ten years'' and inserting ''for any term of years or for life'';

(4) in paragraph (6), by—

(A) striking ''or'' before ''assault resulting in serious bodily injury'';

(B) inserting ''or any other crime of violence'' after ''assault resulting in serious bodily injury''; and

(C) striking ''three'' and inserting ''10''; and

(5) by inserting ''(as defined in section 1365 of this title)'' after ''serious bodily injury'' the first place that term appears.

SEC. 2111. FACILITATING THE PROSECUTION OF CARJACKING OFFENSES.

Section 2119 of title 18, United States Code, is amended by striking '', with the intent to cause death or serious bodily harm''.

SEC. 2112. FACILITATION OF RICO PROSECUTIONS.

Section 1962(d) of title 18, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, it is not necessary to establish that the defendant personally committed an act of racketeering activity.''.

SEC. 2113. ASSAULT AS A RICO PREDICATE.

Section 1961(1)(A) of title 18, United States Code, is amended by adding after ''extortion,'' ''assault''.

SEC. 2114. EXPANSION OF DEFINITION OF "RACKETEERING ACTIVITY" TO AFFECT GANGS IN INDIAN COUNTRY.

Section 1961(1)(A) of title 18, United States Code, is amended by inserting ''or, with respect to an act or threat occurring solely in Indian country, as defined in section 1151 of this title, Federal'' after ''chargeable under State''.

SEC. 2115. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENSES.

Section 2101(a) of title 18, United States Code, is amended by striking ''paragraph—'' and all that follows through the end of the subsection and inserting ''shall be fined under this title—

''(i) if death results from such act, be imprisoned for any term of years or for life, or both;

''(ii) if serious bodily injury (as defined in section 1365 of this title) results from such act, be imprisoned for not more than 20 years, or both; or

''(iii) in any other case, be imprisoned for not more than 5 years, or both''.

SEC. 2116. EXPANSION OF FEDERAL JURISDICTION OVER CRIMES OCCURRING IN PRIVATE PENAL FACILITIES HOUSING FEDERAL PRISONERS OR PRISONERS FROM OTHER STATES.

Section 1791(d)(4) of title 18, United States Code, is amended by inserting before the period at the end the following: '', including privately owned facilities housing Federal prisoners or prisoners who are serving a term of imprisonment under a commitment order from a State other than the State in which the penal facility is located''.

PART 2—TARGETING GANG-RELATED GUN OFFENSES

SEC. 2121. TRANSFER OF FIREARM TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by inserting ''or having reasonable cause to believe'' after ''knowing''.

SEC. 2122. INCREASED PENALTY FOR KNOWINGLY RECEIVING FIREARM WITH OBLITERATED SERIAL NUMBER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking ''(k),''; and

(2) in paragraph (2), by inserting ''(k),'' after ''(j),''.

SEC. 2123. AMENDMENT OF THE SENTENCING GUIDELINES FOR TRANSFERS OF FIREARMS TO PROHIBITED PERSONS.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to increase the base offense level for offenses subject to section 2K2.1 of those guidelines (Unlawful Receipt, Possession, or Firearms or Ammunitions) to assume that a person who transferred a firearm or ammunition and who knew or had reasonable cause to believe that the transferee was a prohibited person is subject to the same base offense level as the transferee. The amended guidelines shall not require the same offense level for the transferor and transferee to the extent that the transferee's base offense level is subject to an additional increase on the basis of a past criminal conviction of either a crime of violence or a controlled substance offense.

PART 3—USING AND PROTECTING WITNESSES TO HELP PROSECUTE GANGS AND OTHER VIOLENT CRIMINALS

SEC. 2131. INTERSTATE TRAVEL TO ENGAGE IN WITNESS INTIMIDATION OR OBSTRUCTION OF JUSTICE.

Section 1952 of title 18, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) Whoever travels in interstate or foreign commerce with intent by bribery, force, intimidation, or threat, directed against any person, to delay or influence the testimony of or prevent from testifying a witness in a State criminal proceeding or by any such means to cause any person to destroy, alter, or conceal a record, document, or other object, with intent to impair the object's integrity or availability for use in such a proceeding, and thereafter engages or endeavors to engage in such conduct, shall—

''(1) be fined under this title or imprisoned not more than 10 years, or both;

''(2) if serious bodily injury (as defined in section 1365) results, be so fined or imprisoned for not more than 20 years, or both; and

''(3) if death results, be so fined and imprisoned for any term of years or for life, or both, and may be sentenced to death.''.

SEC. 2132. EXPANDING PRETRIAL DETENTION ELIGIBILITY FOR SERIOUS GANG AND OTHER VIOLENT CRIMINALS.

(a) IN GENERAL.—Section 3142(f)(1) of title 18, United States Code, is amended by adding at the end the following:

''For purposes of subparagraph (D), the term 'convicted' includes a finding, under Federal or State law, that a person has committed an act of juvenile delinquency;''.

(b) OFFENSES.—Section 3156(a)(4) of title 18, United States Code, is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

(3) by adding at the end the following:

''(D) an offense that is a violation of section 842(i)(1) or 922(g)(1) of this title (relating to possession of explosives or firearms by convicted felons).''.

(c) FACTORS.—Section 3142(g)(3)(B) of title 18, United States Code, is amended—

(1) by striking ''the person was on probation'' and inserting ''the person was—

''(i) on probation'';

(2) by striking ''local law; and'' and inserting ''local law; or''; and

(3) by adding at the end the following:

''(ii) was a member of or participated in a criminal street gang or racketeering enterprise; and''.

SEC. 2133. CONSPIRACY PENALTY FOR OBSTRUCTION OF JUSTICE OFFENSES INVOLVING VICTIMS, WITNESSES, AND INFORMANTS.

Section 1512 of title 18, United States Code, is amended by adding at the end the following:

''(j) Whoever conspires to commit any offense defined in this section or section 1513 of this title shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 2134. ALLOWING A REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION ALTHOUGH NOT REGARDING A PARTICULAR INDIVIDUAL.

(a) TITLE 18.—Section 3553(e) of title 18, United States Code, is amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense''.

(b) TITLE 28.—Section 994(n) of title 28, United States Code, is amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense''.

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense''.

SEC. 2135. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''as provided in paragraph (2)'' and inserting ''as provided in paragraph (3)'';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

''(2) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to—

''(A) influence, delay, or prevent the testimony of any person in an official proceeding;

''(B) cause or induce any person to—

''(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

''(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

''(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and

''(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

''(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).''; and

(D) by striking paragraph (3)(B), as redesignated, and inserting the following:

''(B) an attempt to murder, the use of physical force, the threat of physical force, or an attempt to do so, imprisonment for not more than 20 years.''; and

(2) in subsection (b), by striking ''or physical force''.

SEC. 2136. EXPANSION OF FEDERAL KIDNAPPING OFFENSE TO COVER WHEN DEATH OF VICTIM OCCURS BEFORE CROSSING STATE LINE AND WHEN FACILITY IN INTERSTATE COMMERCE OR THE MAILS ARE USED.

Section 1201(a) of title 18, United States Code, is amended—

(1) by inserting before the semicolon at the end of paragraph (1) the following: '', without regard to whether such person was alive when transported across a State boundary if the person was alive when the transportation began'';

(2) by striking ''or'' at the end of paragraph (4); and

(3) by inserting after paragraph (5) the following:

''(6) an individual travels in interstate or foreign commerce in furtherance of the offense; or

''(7) the mail or a facility in interstate or foreign commerce is used in furtherance of the offense;''.

SEC. 2137. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting ''or other felony crime of violence against the person'' after ''murder''.

SEC. 2138. CLARIFICATION OF INTERSTATE THREAT STATUTE TO COVER THREATS TO KILL.

Subsections (b) and (c) of section 875 of title 18, United States Code, and the second and third undesignated paragraphs of sections 876 and 877 of title 18, United States Code, are each amended by striking ''any threat to injure'' and inserting ''any threat to kill or injure''.

SEC. 2139. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA FOR RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 6050I of the Internal Revenue Code of 1986; and

''(iv) section 286, 287, 669, 1001, 1027, 1035, 1341, 1343, 1347, 1518, or 1954 relating to a Federal health care offense.''.

PART 4—GANG PARAPHERNALIA

SEC. 2141. STREAMLINING PROCEDURES FOR LAW ENFORCEMENT ACCESS TO CLONE NUMERIC PAGERS.

(a) AMENDMENT TO CHAPTER 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking ''AND TRAP AND TRACE DEVICES'' and inserting: ''TRAP AND TRACE DEVICES, AND CLONE NUMERIC PAGERS'';

(2) in section 3121—

(A) in the section heading, by striking ''and trap and trace device'' and inserting '', trap and trace device, and clone pager'';

(B) in subsection (a)—

(i) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(ii) after ''3123'' by inserting ''or section 3129''; and

(C) in subsections (b) and (c), by striking ''or trap and trace device'' each place that term appears and inserting '', a trap and trade device or a cone pager'';

(3) in section 3124—

(A) in the section heading, by striking ''or a trap and trace device'' and inserting '', a trap and trace device, or a clone pager'';

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

''(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to use a clone pager under this chapter, a provider of a paging service or electronic communication service shall furnish such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court provides to the subscriber, if such assistance is directed by a court order as provided in section 3129(b)(2) of this chapter.'';

(4) in section 3125—

(A) in the section heading, by striking ''and trap and trace device'' and inserting '', trap and trace device, and clone pager'';

(B) in subsection (a)—

(i) by striking ''or trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager''; and

(ii) by striking ''an order approving the installation or use is issued in accordance with section 3123 of this title'' and inserting ''an application is made for an order approving the installation or use in accordance with section 3123 or section 3128 of this title''; and

(C) in subsection (b), by adding at the end the following: ''In the event such application for the use of a clone pager is denied, or in any other case where the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in section 3129(e).'';

(5) in section 3126—

(A) in the section heading, by striking ''and trap and trace devices'' and inserting '', trap and trace devices, and clone pagers''; and

(B) by striking ''pen register orders and orders for trap and trace devices'' and inserting ''orders for pen registers, trap and trace devices, and clone pagers''; and

(6) in section 3127—

(A) in paragraph (2), by striking ''pen register or a trap and trace device'' and inserting ''pen register, a trap and trace device, or a clone pager'';

(B) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(C) by inserting after paragraph (4) the following:

''(5) the term 'clone pager' means a numeric display device that receives transmissions intended for another numeric display paging device.''.

(b) APPLICATIONS FOR ORDERS.—Chapter 206 of title 18, United States Code, is amended by adding at the end the following:

''§ 3128. Application for an order for use of a clone pager

''(a) APPLICATION.—(1) An attorney for the Government may apply to a court of competent jurisdiction for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

''(2) A State investigative or law enforcement officer may, if authorized by State law, apply to a court of competent jurisdiction of such State for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

''(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

''(1) the identify of the attorney for the Government or the State law enforcement or investigative officer making the application and the identify of the law enforcement agency conducting the investigation;

''(2) the identify, if known, of the person using the numeric display paging device to be cloned;

''(3) a description of the numeric display paging device to be cloned;

''(4) the identify, if known, of the person who is the subject of the criminal investigation; and

''(5) an affidavit, sworn to before the court of competent jurisdiction, establishing probable cause for belief that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

''§ 3129. Issuance of an order for use of a clone pager

''(a) IN GENERAL.—Upon an application made under section 3128 of this title, the court shall enter an ex parte order authorizing the use of a clone pager within the jurisdiction of the court if the court finds that the application has established probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

''(b) CONTENTS OF AN ORDER.—An order issued under this section—

''(1) shall specify—

''(A) the identity, if known, of each individual using the numeric display paging device to be cloned;

''(B) the numeric display paging device to be cloned;

''(C) the identity, if known, of the person who is the subject of the criminal investigation; and

''(D) the offense to which the information likely to be obtained by the clone pager relates; and

''(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to use the clone pager under section 3124 of this title.

''(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the use of a clone pager for a period not to exceed 30 days.

''(2) Extensions of an order referred to in paragraph (1) may be granted, but only upon an application for an order under section 3128 of this title and upon the judicial finding required by subsection (a). The period of extension shall be for a period not to exceed 30 days.

''(3) Within a reasonable time after the termination of the period of a clone pager order or any extensions thereof, the applicant shall report to the issuing judge the number of numeric pager messages acquired through the use of the clone pager during such period.

''(d) NONDISCLOSURE OF EXISTENCE OF CLONE PAGER.—An order authorizing the use of a clone pager shall direct that—

''(1) the order be sealed until otherwise ordered by the court; and

''(2) the person who has been ordered by the court to provide assistance to the applicant not disclose the existence of the clone pager or the existence of the investigation to the listed subscriber, or to any other person, until otherwise ordered by the court.

''(e) NOTIFICATION.—Within a reasonable time but not later than 90 days after the termination of the period of a clone pager order or any extensions thereof, the issuing judge shall cause to be served, on each individual using the numeric display paging device which was cloned, an inventory including notice of—

''(1) the fact of the entry of the order or the application;

''(2) the date of the entry and the period of clone pager use authorized, or the denial of the application; and

''(3) whether or not information was obtained through the use of the clone pager.

Upon an ex parte showing of good cause, a court of competent jurisdiction may in its discretion postpone the serving of the notice required by this section.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 206 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3121 and inserting the following:

''3121. General prohibition on pen register, trap and trace device, and clone pager use; exception.'';

(2) by striking the item relating to section 3124 and inserting the following:

''3124. Assistance in installation and use of a pen register, a trap and trace device, or clone pager.'';

(3) by striking the item relating to section 3125 and inserting the following:

''3125. Emergency pen register, trap and trace device, and clone pager installation and use.'';

(4) by striking the item relating to section 3126 and inserting the following:

''3126. Reports concerning pen registers, trap and trace devices, and clone pagers.'';

and

(5) by adding at the end the following:

''3128. Application for an order for use of a clone pager.

''3129. Issuance of an order for use of a clone pager.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

''(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title); or''.

(2) Section 2510(12) of title 18, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) by inserting ''or'' after subparagraph (D); and

(C) by adding at the end the following:

''(E) any transmission made through a clone pager (as defined in section 3127(5) of this title).''.

(3) Section 705(a) of the Communications Act of 1934 (47 U.S.C. 605(a)) is amended by striking ''chapter 119'' and inserting ''chapters 119 and 206''.

SEC. 2142. SENTENCING ENHANCEMENT FOR USING BODY ARMOR IN COMMISSION OF A FELONY.

(a) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term ''body armor'' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant used body armor.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

(d) APPLICABILITY.—No Federal sentencing guideline amendment made under this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 2143. SENTENCING ENHANCEMENT FOR USING LASER SIGHTING DEVICES IN COMMISSION OF A FELONY.

(a) DEFINITIONS.—In this section—

(1) the term ''firearm'' has the same meaning as in section 921 of title 18, United States Code; and

(2) the term ''laser-sighting device'' includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sighting,

telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any serious violent felony or serious drug offense, as defined in section 3559 of title 18, United States Code, in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant possessed a laser-sighting device (capable of being readily attached to the firearm).

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2144. GOVERNMENT ACCESS TO LOCATION INFORMATION.

(a) COURT ORDER REQUIRED.—Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(g) REQUIREMENTS FOR DISCLOSURE OF LOCATION INFORMATION.—A provider of mobile electronic communication service shall provide to a governmental entity information generated by and disclosing, on a real time basis, the physical location of a subscriber's equipment only if the governmental entity obtains a court order issued upon a finding that there is probable cause to believe that an individual using or possessing the subscriber equipment is committing, has committed, or is about to commit a felony offense.''.

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(B) of title 18, United States Code, is amended by inserting ''or wireless location information covered by subsection (g) of this section'' after ''(b) of this section''.

SEC. 2145. LIMITATION ON OBTAINING TRANSACTIONAL INFORMATION FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.

Subsection 3123(a) of title 18, United States Code, is amended to read as follows:

''(a) IN GENERAL.—Upon an application made under section 3122, the court may enter an ex parte order—

''(1) authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds, based on the certification by the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation; and

''(2) directing that the use of the pen register or trap and trace device be conducted in such a way as to minimize the recording or decoding of any electronic or other impulses that are not related to the dialing and signaling information utilized in call processing.''.

Subtitle B—Combating Money Laundering

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the ''Money Laundering Enforcement Act of 2001''.

SEC. 2202. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) CIVIL FORFEITURE FOR MONEY TRANSMITTING VIOLATION.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking ''or 1957'' and inserting '', 1957, or 1960''.

(b) SCIENTER REQUIREMENT FOR SECTION 1960 VIOLATION.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) SCIENTER REQUIREMENT.—For the purposes of proving a violation of this section involving an illegal money transmitting business—

''(1) it shall be sufficient for the Government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and

''(2) it shall not be necessary to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.''.

SEC. 2203. RESTRAINT OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

''(3) RESTRAINT OF ASSETS.—

''(A) IN GENERAL.—If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure.

''(B) APPLICATION.—An application for a restraining order under subparagraph (A) shall—

''(i) set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture; and

''(ii) contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.''.

SEC. 2204. CIVIL MONEY LAUNDERING JURISDICTION OVER FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each subparagraph appropriately;

(2) by striking ''(b) Whoever'' and inserting the following:

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—Whoever''; and

(3) by adding at the end the following:

''(2) JURISDICTION.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts of the United States shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon such foreign person is made in accordance with the Federal Rules of Civil Procedure or the laws of the foreign country in which the foreign person is found.

''(3) SATISFACTION OF JUDGMENT.—In any action described in paragraph (2), the court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.''.

SEC. 2205. PUNISHMENT OF LAUNDERING MONEY THROUGH FOREIGN BANKS.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

''(6) the term 'financial institution' includes—

''(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder; and

''(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));''.

SEC. 2206. ADDITION OF SERIOUS FOREIGN CRIMES TO LIST OF MONEY LAUNDERING PREDICATES.

(a) IN GENERAL.—Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking clause (ii) and inserting the following:

''(ii) any act or acts constituting a crime of violence;''; and

(B) by adding at the end the following:

''(iv) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity;

''(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

''(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications as defined in the Commerce Control List of the Export Administration Regulations; or

''(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States;'';

(2) in subparagraph (D)—

(A) by inserting ''section 541 (relating to goods falsely classified),'' before ''section 542'';

(B) by inserting ''section 922(l) (relating to the unlawful importation of firearms), section 924(m) (relating to firearms trafficking),'' before ''section 956'';

(C) by inserting ''section 1030 (relating to computer fraud and abuse),'' before ''1032''; and

(D) by inserting ''any felony violation of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.),'' before ''or any felony violation of the Foreign Corrupt Practices Act''; and

(3) in subparagraph (E), by inserting ''the Clean Air Act (42 U.S.C. 6901 et seq.),'' after ''the Safe Drinking Water Act (42 U.S.C. 300f et seq.),''.

SEC. 2207. CRIMINAL FORFEITURE FOR MONEY LAUNDERING CONSPIRACIES.

Section 982(a)(1) of title 18, United States Code, is amended by inserting ''or a conspiracy to commit any such offense,'' after ''of this title,''.

SEC. 2208. FUNGIBLE PROPERTY IN FOREIGN BANK ACCOUNTS.

Section 984(d) of title 18, United States Code, is amended by adding at the end the following:

''(3) In this subsection, the term 'financial institution' includes a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).''.

SEC. 2209. ADMISSIBILITY OF FOREIGN BUSINESS RECORDS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''§ 2467. Foreign records

''(a) DEFINITIONS.—In this section—

''(1) the term 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit;

''(2) the term 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a record

of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country;

''(3) the term 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country; and

''(4) the term 'official request' means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibility, to a court or other authority of a foreign country.

''(b) ADMISSIBILITY.—In a civil proceeding in a court of the United States, including a civil forfeiture proceeding and a proceeding in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity (or a duplicate of such record), obtained pursuant to an official request, shall not be excluded as evidence by the hearsay rule if a foreign certification, also obtained pursuant to the same official request or subsequent official request that adequately identifies such foreign record, attests that—

''(1) the foreign record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

''(2) the foreign record was kept in the course of a regularly conducted business activity;

''(3) the business activity made such a record as a regular practice; and

''(4) if the foreign record is not the original, the record is a duplicate of the original.

''(c) FOREIGN CERTIFICATION.—A foreign certification under this section shall authenticate a record or duplicate described in subsection (b).

''(d) NOTICE.—

''(1) IN GENERAL.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

''(2) OPPOSITION.—A motion opposing admission in evidence of a record under paragraph (1) shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record, except that the court for cause shown may grant relief from the waiver.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

''2467. Foreign records.''.

SEC. 2210. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956(h) of title 18, United States Code, is amended—

(1) by striking ''(h) Any person'' and inserting the following:

''(h) CONSPIRACY; MULTIPLE VIOLATIONS.—

''(1) CONSPIRACY.—Any person''; and

(2) by adding at the end the following:

''(2) MULTIPLE VIOLATIONS.—Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.''.

SEC. 2211. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

''(i) VENUE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in any district in which the financial or monetary transaction is conducted, or in which a prosecution for the underlying specified unlawful activity could be brought, if the defendant participates in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

''(2) EXCEPTION.—A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district in which venue would lie for the completed offense under paragraph (1), or in any other district in which an act in furtherance of the attempt or conspiracy took place.''.

SEC. 2212. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN MONEY LAUNDERING OFFENSES.

Section 2516(1)(g) of title 18, United States Code, is amended by striking ''of title 31, United States Code (dealing with the reporting of currency transactions)'' and inserting ''or 5324 of title 31 (dealing with the reporting and illegal structuring of currency transactions)''.

SEC. 2213. CRIMINAL PENALTIES FOR VIOLATIONS OF ANTI-MONEY LAUNDERING ORDERS.

(a) REPORTING VIOLATIONS.—Section 5324(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting '', or the reporting requirements imposed by an order issued pursuant to section 5326'' after ''any such section''; and

(2) in each of paragraphs (1) and (2), by inserting '', or a report required under any order issued pursuant to section 5326'' before the semicolon.

(b) PENALTIES.—Sections 5321(a)(1), 5322(a), and 5322(b) of title 31, United States Code, are each amended by inserting ''or order issued'' after ''or a regulation prescribed'' each place that term appears.

SEC. 2214. ENCOURAGING FINANCIAL INSTITUTIONS TO NOTIFY LAW ENFORCEMENT AUTHORITIES OF SUSPICIOUS FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—Section 2702(b)(6) of title 18, United States Code, is amended—

(1) by inserting ''or supervisory agency'' after ''a law enforcement agency'';

(2) in subparagraph (A), by striking ''; and'' and inserting ''and appear to pertain to the commission of the crime; or''; and

(3) in subparagraph (B), by striking ''appear to pertain to the commission of the crime.'' and inserting ''appear to reveal a suspicious transaction relevant to a possible violation of law or regulation.''

(b) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the terms 'suspicious transaction' and 'relevant to a possible violation of the law or regulation' shall be interpreted in the same manner as those terms have been interpreted for purposes of section 5318(g) of title 31; and

''(4) the term 'supervisory agency' has the meaning given the term in section 1101(7) of the Right to Financial Privacy Act of 1978.''.

SEC. 2215. COVERAGE OF FOREIGN BANK BRANCHES IN THE TERRITORIES.

Section 20(9) of title 18, United States Code, is amended by inserting before the period the following: '', except that for purposes of this section the definition of the term 'State' in such Act shall be deemed to include a commonwealth, territory, or possession of the United States''.

SEC. 2216. CONFORMING STATUTE OF LIMITATIONS AMENDMENT FOR CERTAIN BANK FRAUD OFFENSES.

Section 3293 of title 18, United States Code, is amended—

(1) by inserting ''225,'' after ''215,''; and

(2) by inserting ''1032,'' before ''1033''.

SEC. 2217. JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

''(h) JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.—Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b), shall be subject to the same penalties as if that offense had been committed in the United States, if the act—

''(1) involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

''(2) causes, or if completed would have caused, a transfer of funds from or a loss to an entity listed in paragraph (1).''.

SEC. 2218. KNOWLEDGE THAT THE PROPERTY IS THE PROCEEDS OF A FELONY.

Section 1956(c)(1) of title 18, United States Code, is amended by inserting '', and regardless of whether or not the person knew that the activity constituted a felony'' before the semicolon at the end.

SEC. 2219. MONEY LAUNDERING TRANSACTIONS; COMMINGLED ACCOUNTS.

(a) SECTION 1956.—Section 1956 of title 18, United States Code, is amended by adding at the end the following:

''(i) A transaction, transportation, transmission, or transfer of funds shall be considered for the purposes of this section to be one involving the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer involves—

''(1) funds directly traceable to the specified unlawful activity, or represented to be directly traceable to the specified unlawful activity;

''(2) a bank account in which the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, have been commingled with other funds; or

''(3) 2 or more bank accounts, where the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, are deposited into 1 bank account and there is a contemporaneous, related withdrawal from, or debit to, another bank account controlled by the same person, or by a person acting in concert with that person.''.

(b) SECTION 1957.—Section 1957(f) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

''(4) the term 'monetary transaction in criminally derived property that is of a value greater than $10,000' includes—

''(A) a monetary transaction involving the transfer, withdrawal, encumbrance or other disposition of more than $10,000 from a bank account in which more than $10,000 in proceeds of specified unlawful activity have been commingled with other funds;

''(B) a series of monetary transactions in amounts under $10,000 that exceed $10,000 in the aggregate and that are closely related to

each other in terms of time, the identity of the parties involved, the nature of the transactions and the manner in which they are conducted; and

''(C) any financial transaction described in section 1956(i)(3) that involves more than $10,000 in proceeds of specified unlawful activity.''.

(c) TECHNICAL AMENDMENT.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting '', as defined in section 24'' before the period.

SEC. 2220. LAUNDERING THE PROCEEDS OF TERRORISM.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''or 2339B'' after ''2339A''.

SEC. 2221. VIOLATIONS OF SECTION 6050I.

Sections 981(a)(1)(A) and 982(a)(1) of title 18, United States Code, are amended by inserting '', or of section 6050I of the Internal Revenue Code of 1986 (26 U.S.C. §6050I)'' after ''of title 31''.

SEC. 2222. INCLUDING AGENCIES OF TRIBAL GOVERNMENTS IN THE DEFINITION OF A FINANCIAL INSTITUTION.

Section 5312(a)(2)(W) of title 31, United States Code, is amended by striking ''State or local'' and inserting ''State, local or tribal''.

SEC. 2223. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS.

(a) CIVIL PENALTY FOR VIOLATION OF TARGETING ORDER.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by inserting ''or order issued'' after ''subchapter or a regulation prescribed''; and

(2) by inserting A, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''section 5314 and 5315)''.

(b) CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER.—Section 5322 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed''; and

(B) by inserting ''or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324),'';

(2) in subsection (b)—

(A) by inserting ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed''; and

(B) by inserting ''willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324),'';

(c) STRUCTURING TRANSACTIONS TO EVADE TARGETING ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.—Section 5324 of title 31, United States Code, is amended—

(1) in the title by inserting ''or recordkeeping'' after ''reporting''.

(2) in subsection (a)—

(A) by inserting a comma after ''shall'';

(B) by striking ''section—'' and inserting ''section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—'';

(C) in paragraphs (1) and (2), by inserting '', to file a report or maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508'' after ''regulation prescribed under any such section'' each place that term appears.

Subtitle C—Antidrug Provisions

SEC. 2301. AMENDMENTS CONCERNING TEMPORARY EMERGENCY SCHEDULING.

Section 201(h) of the Controlled Substances Act (21 U.S.C. 811(h)) is amended to read as follows:

''(h) TEMPORARY SCHEDULING TO AVOID IMMINENT HAZARDS TO PUBLIC SAFETY.—

''(1) IN GENERAL.—If the Attorney General finds that the control of a substance on a temporary basis is necessary to avoid an imminent hazard to the public safety, the Attorney General may, by order and without regard to the requirements of subsection (b) of this section relating to the Secretary of Health and Human Services, and without regard to the findings required under section 202(b) (21 U.S.C. 812(b)), temporarily schedule such substance in accordance with this subsection if no approval is in effect for the substance under section 505(i) of the Federal Food, Drug, and Cosmetic Act (hereafter in this subsection referred to as the FDC Act) (21 U.S.C. 355(i)).

''(A) If the substance is not contained in a drug for which an investigational new drug exemption is in effect under section 505(i) of the FDC Act, the temporary scheduling order shall place such substance in schedule I.

''(B) If the substance is contained in a drug for which an investigational new drug exemption is in effect under section 505(i) of the FDC Act, the temporary scheduling order shall place such substance in schedule II, subject to the conditions set forth in paragraph (6) of this subsection.

''(C) A temporary scheduling order, or order renewing such order, may not take effect before the expiration of thirty days from—

''(i) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued; and

''(ii) the date the Attorney General has transmitted the notice required by paragraph (4).

''(2) DURATION OF TEMPORARY SCHEDULING; RENEWAL OF ORDERS.—

''(A) A temporary scheduling order issued under subparagraph (1)(A) of this subsection shall expire at the end of one year from the effective date of the order, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section with respect to the substance, extend the temporary scheduling order for up to six months.

''(B) A temporary scheduling order issued under subparagraph (1)(B) of this subsection shall expire at the end of 18 months from the effective date of the order, except that, if the Attorney General determines that continuation of the temporary scheduling order is necessary to avoid an imminent hazard to the public safety, the Attorney General may issue a renewal order, 30 days prior to expiration of the temporary scheduling order, extending the original order for an additional 18 months, provided the following conditions are met—

''(i) an exemption with respect to such substance remains in effect under section 505(i) of the FDC Act; and—

''(ii) the holder of such exemption is actively pursuing the clinical investigation of the substance.

The Secretary shall certify to the Attorney General whether or not each of conditions (i) and (ii) continue to be met no later than 90 days prior to the date on which the temporary scheduling order is scheduled to a expire. As long as both conditions continue to be met, the Attorney General may, every 18 months, continue to issue orders renewing the temporary scheduling of a particular substance. If either of the foregoing conditions are no longer met for a particular substance, the temporary scheduling of that substance may not be renewed and shall expire 12 months after the date on which such condition fails to be met, except that the Attorney General may, during the pendency of proceedings under subsection (a)(l) of this section with respect to the substance, extend the temporary scheduling for an additional six months.

''(3) FACTORS DETERMINATIVE OF TEMPORARY SCHEDULING.—When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c) of this section, including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

''(4) CONSULTATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

''(5) EFFECT OF PERMANENT SCHEDULING PROCEEDINGS.—An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rule making proceeding initiated under subsection (a) of this section with respect to such substance.

''(6) SPECIAL RULES APPLICABLE TO TEMPORARILY SCHEDULED INVESTIGATIONAL DRUGS.—

(A) In the case of a substance that is temporarily scheduled under subparagraph (l)(B) of this subsection that was controlled under this subchapter prior to its temporary scheduling, any person who manufactures, distributes, dispenses, possesses, or uses such substance within the scope of the exemption under section 505(i) of the FDC Act shall be subject to the same requirements of this subchapter that were in effect prior to the temporary scheduling.

''(B) In the case of a substance that is temporarily scheduled under subparagraph (l)(B) of this subsection that was not controlled under this subchapter prior to its temporary scheduling, any person who manufactures, distributes, dispenses, possesses, or uses such substance within the scope of the exemption under section 505(i) of the FDC Act shall not be required to comply with the requirements of part C of this subchapter, except as provided in this paragraph—

''(i) Such person shall be subject to sections 302, 303, and 304 (21 U.S.C. 822, 823, and 824), relating to registration.

''(ii) Compliance with applicable record keeping and reporting requirements of the FDC Act, as determined by the Secretary, shall constitute compliance with section 307 (21 U.S.C. 827). A violation of such requirements shall constitute a violation of section 307 and shall subject a violator to applicable penalties under Part D of this subchapter, in addition to any other penalties provided by law. Records or documents required to be kept for such purposes under the FDC Act shall be deemed records or documents required under this subchapter, and places where such records or documents are kept or required to be kept shall be deemed controlled premises for purposes of administrative inspections and warrants under section 510 (21 U.S.C. 880).

''(iii) A registrant handling an investigational drug that has been temporarily scheduled under this section shall be subject to the requirements established under section 307(f), relating to procedures necessary to insure the security and accountability of controlled substances used in research and to prevent theft or diversion of the drug into illegal channels of distribution.

''(C) Each person that is a sponsor of an investigation of a new drug for which a research exemption is in effect under section 505(i) of the FDC Act with respect to such substance shall be required to certify to the Secretary of Health and Human Services, by one month after the effective date of the temporary scheduling order with respect to the substance, and by the end of each succeeding six month period, that such person is able to account for the location and use of all quantities of such substance that are or have been manufactured, distributed, dispensed, possessed, or used under such exemption on or before the date of such certification.

''(D) In the case of a substance that is temporarily scheduled under subparagraph (1)(B) of this subsection, the disclosure of the existence of an exemption under section 505(i) of the FDC Act with respect to such substance shall not be considered to be disclosure prohibited by section 301(j) of the FDC Act or section 1905 of title 18 of the United States Code.

''(E) The manufacture, possession, distribution, or use of such substance within the scope of such exception shall not be subject to any requirements or penalty under State or local law more stringent than the provisions of this chapter or other applicable Federal law.

''(7) JUDICIAL REVIEW.—An order issued under paragraph (1) is not subject to judicial review, except that a renewal order issued under subparagraph (2)(B) of this subsection is subject to judicial review in accordance with section 507 (21 U.S.C. 877).''.

SEC. 2302. AMENDMENT TO REPORTING REQUIREMENT FOR TRANSACTIONS INVOLVING CERTAIN LISTED CHEMICALS.

Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended by—

(1) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C);

(2) inserting a new subparagraph (A) as follows:

''(A) As used in this section, the term 'drug product' means a pharmaceutical substance in dosage form that has been approved under the Food, Drug and Cosmetic Act for distribution in the United States.'';

(3) in the redesignated (B) by inserting ''or who engages in an export transaction'' after ''nonregulated person''; and

(4) adding at the end the following—

''(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person and the following export transactions shall not be subject to the reporting requirement established in subparagraph (B):

''(i) distributions of sample packages of drug products when such packages contain not more than 2 solid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day time period;

''(ii) distributions of drug products by retail distributors to the extent that such distributions are consistent with the activities authorized for a retail distributor as set out in section 102(46) of this title;

''(iii) distributions of drug products to a resident of a Long Term Care Facility (as that term is defined in the regulations of the Attorney General) or distributions of drug products to a Long Term Care Facility for dispensing to or for use by a resident of that facility;

''(iv) distributions of drug products pursuant to a valid prescription (as used in this section, the term 'valid prescription' is one which is issued for a legitimate medical purpose by individual practitioner licensed by law to administer and prescribe such drugs and acting in the usual course of his/her professional practice);

''(v) exports which have been reported to the Attorney General pursuant to section 1004 or 1018 of title III or which are subject to a waiver granted under section 1018(e)(2) of title III; and

''(vi) any quantity, method or type of distribution or any quantity, method or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from this reporting requirement on the basis that such reporting is not necessary to the enforcement of this title or title III.

''(E) The Attorney General may revoke any or all of the exemptions listed in (C) for an individual regulated person if he finds that drug products distributed by that person are being used in violation of this title or title III. The regulated person shall be notified of this revocation, which will be effective upon receipt by the regulated person of such notice, as provided in section 1018(c)(1) of title III and has the right to an expedited hearing as provided in section 1018(c)(2) of title III.''.

SEC. 2303. DRUG PARAPHERNALIA.

(a) IN GENERAL.—Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended by inserting ''packaging,'' after ''concealing,''.

(b) DETERMINATION OF DRUG PARAPHERNALIA.—Section 422(e)(4) of the Controlled Substances Act (21 U.S.C. 863(e)(4)) is amended by adding the following after ''sale'': ''including, but not limited to, whether the item displays any name brand, insignia or other indicator which is associated with illegal drugs or which is used to advertise or identify an illegal drug''.

(c) CLERICAL AMENDMENTS.—(1) Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking all after ''as defined in'' and inserting ''section 422 of this title.''.

(2) Section 422 of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended—

(A) by deleting subsection (c); and

(B) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

SEC. 2304. COUNTERFEIT SUBSTANCES/IMITATION CONTROLLED SUBSTANCES.

(a) Section 102(7) of the Controlled Substances Act (21 U.S.C. 802(7)) is amended by—

(1) inserting ''(A)'' after ''(7)'';

(2) designating the text after ''a controlled substance'' as clause (i);

(3) inserting ''characteristic,'' after ''number,'';

(4) striking the period at the end and inserting a semicolon; and

(5) adding at the end the following:

''(ii) which falsely purports or is represented to be a different controlled substance; or

''(iii) which is manufactured or designed in such a manner, or is distributed, dispensed, or otherwise transferred under such circumstances, such that a reasonable person would believe that the substance is a different controlled substance.

''(B) The term 'imitation controlled substance' means a substance, which is not a controlled substance, that is represented (expressly or by implication) to be a controlled substance.

''(C) The term 'imitation controlled substance' does not include a placebo which is directly applied to the body of a research subject or a patient or which is delivered to a research subject or a person for his own use, by, or pursuant to the order of, a practitioner for a lawful purpose.''.

(b) Section 102(8) of the Controlled Substances Act (21 U.S.C. 802(8)) is amended by inserting '', an imitation controlled substance,'' after ''controlled substance''.

(c) Section 102(11) of the Controlled Substances Act (21 U.S.C. 802(11)) is amended by—

(1) inserting ''to deliver an imitation controlled substance or'' after ''controlled substance or'' in the first sentence; and

(2) inserting '', an imitation controlled substance,'' after ''controlled substance'' in the second sentence.

(d) Section 102(44) of the Controlled Substances Act (21 U.S.C. 802(44)) is amended by—

(1) striking ''or'' after ''marihuana,''; and

(2) inserting '', anabolic agents, or listed chemicals, or an offense that is punishable by imprisonment for more than one year under any provision of this title or title III'' after ''stimulant substances''.

(e) Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) is amended by—

(1) striking ''or'' at the end of paragraph (1);

(2) striking ''create'' in paragraph (2) and inserting ''manufacture'';

(3) inserting ''manufacture,'' after ''intent to'' in paragraph (2);

(4) striking the period at the end of paragraph (2) and inserting ''; or'' ; and

(5) adding at the end the following paragraph:

''(3) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, an imitation controlled substance.''.

(f) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b) is amended by redesignating paragraphs (4) through (7) as paragraphs (6) through (9) and inserting after paragraph (3) the following:

''(4)(A) In the case of a counterfeit substance, such person shall be sentenced in accordance with this section based on the controlled substance which the counterfeit substance is represented to be or based on the controlled substance which is actually contained in the counterfeit substance, whichever provides the greater sentence.

''(B) Paragraph (5)(B) of this subsection may be applied to make a determination that a controlled substance is a counterfeit substance.

''(5)(A) In the case of an imitation controlled substance, such person shall be sentenced to a term of imprisonment or a fine, or both, which does not exceed one-half of the maximum term of imprisonment and fine which would apply under this section to the controlled substance which the imitation controlled substance is represented to be. The minimum period of supervised release for such person shall be one-half of that which would apply under this section to the controlled substance which the imitation controlled substance is represented to be.

''(B) In the case of a violation of this title or title III involving an imitation controlled substance, the following provisions shall apply:

''(i) The trier of fact may consider the following factors in addition to any other factor that may be relevant for purposes of determining whether a substance was an imitation controlled substance. The presence of any two of the following factors shall be prima facie evidence that the substance was an imitation controlled substance; however, the presence of two factors is not required for a determination that a substance is an imitation controlled substance:

''(I) The person in control of the substance expressly or impliedly represents that the substance is a controlled substance or has the effect of a controlled substance;

''(II) The person in control of the substance expressly or impliedly represents that the substance because of its nature or appearance can be sold, delivered or used as a controlled substance or as a substitute for a controlled substance;

''(III) The person in control of the substance utilizes evasive tactics or actions to avoid detection by law enforcement authorities or other authorities such as school authorities;

''(IV) The physical appearance of the substance is, or is designed to be, substantially identical to a specific controlled substance. This may be determined by such factors as color, shape, size, markings, taste, odor, consistency, packaging, labeling, or other identifying characteristics;

''(V) The substance is packaged or distributed in a manner normally used for the illegal distribution of controlled substances; or

''(VI) The distribution or attempted distribution includes an exchange or demand for money or other property as consideration, and the amount of the consideration is substantially greater than the reasonable retail market value of the substance.

''(ii) It shall not constitute a defense that the accused believed the imitation controlled substance to actually be a controlled substance.''.

(g) Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in paragraph (a)(2), by inserting ''or list I chemical'' after ''controlled substance'' each place it appears;

(2) in paragraph (a)(3), by inserting ''or a laboratory supply (as defined in section 402(a) of this title)'' after ''controlled substance''; and

(3) in paragraph (a)(5) by—

(A) inserting ''or substance'' after ''drug'' both places it appears; and

(B) inserting ''or an imitation controlled substance'' after ''counterfeit substance''.

(h) Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting '', imitation controlled substances,'' after ''controlled substances''.

(i) Section 509 of the Controlled Substances Act (21 U.S.C. 879) is amended by inserting ''imitation controlled substances, or listed chemicals'' after ''controlled substances''.

(j)(1) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(A) in paragraph (1), by inserting ''and imitation controlled substances'' after ''controlled substances'';

(B) in paragraph (2), by inserting '', imitation controlled substance,'' after ''controlled substance'';

(C) in paragraph (6), by inserting '', imitation controlled substance,'' after ''controlled substance''; and

(D) in paragraph (8), by inserting ''and imitation controlled substances'' after ''controlled substances''.

(2) Section 607(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1607(a)(3)) is amended by inserting '', imitation controlled substance,'' after ''controlled substance''.

(3) Section 607(b) of the Tariff Act of 1930 (19 U.S.C. 1607(b)) is amended by inserting '', 'imitation controlled substance','' after '' 'controlled substance' ''.

(k) Section 1010(a) of the Controlled Substances Act (21 U.S.C. 960(a)) is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by inserting ''or'' after ''substance,''; and

(3) by inserting after paragraph (3) the following:

''(4) knowingly or intentionally imports or exports a counterfeit substance or an imitation controlled substance,''.

(l) Section 2516(1)(e) of title 18, United States Code, is amended by inserting ''or a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 851, et seq.)'' after ''United States''.

SEC. 2305. CONFORMING AMENDMENT CONCERNING MARIJUANA PLANTS.

Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking ''except in the case of 100 or more marijuana plants'' and inserting ''except in the case of 50 or more marijuana plants''.

SEC. 2306. SERIOUS JUVENILE DRUG TRAFFICKING OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(C) of title 18, United States Code, is amended by inserting ''or serious drug offense'' after ''violent felony''.

SEC. 2307. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

''(5) Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.''.

(b) SENTENCING ENHANCEMENT.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense under section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) that occurs on Federal property.

(2) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishment for substantially the same offense.

SEC. 2308. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Subparagraphs (A) through (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are each amended by striking ''Any sentence'' and inserting ''Notwithstanding section 3583 of title 18, any sentence''.

SEC. 2309. SUPERVISED RELEASE PERIOD AFTER CONVICTION FOR CONTINUING CRIMINAL ENTERPRISE.

Section 848(a) of title 21, United States Code, is amended by adding to the end of the following: ''Any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 10 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 15 years in addition to such term of imprisonment.''.

SEC. 2310. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of any Federal statute''.

SEC. 2311. IMPORT AND EXPORT OF CHEMICALS USED TO PRODUCE ILLICIT DRUGS.

(a) NOTIFICATION REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) by amending subsection (a) to read as follows:

''(a) Each person who proposes to engage in a transaction involving the importation or exportation of a listed chemical which requires advance notification pursuant to the regulations of the Attorney General or the importation or exportation of a tableting machine or an encapsulating machine shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place in such form and supplying such information as the Attorney General shall require by regulation; in the case of an importation for transfer or transshipment pursuant to section 1004 of this title, such notice will be made as provided in that section.'';

(2) in subsection (c)(1)—

(A) by striking the phrase ''(other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section)'';

(B) by inserting '', a tableting machine or an encapsulating machine'' after ''a listed chemical''; and

(C) by inserting '', tableting machine, or encapsulating machine'' after ''the chemical''; and

(3) in subsection (e)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5);

(B) by inserting after paragraph (1) new paragraphs (2) and (3) as follows:

''(2) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all imports of a listed chemical, regardless of the status of certain importers of that listed chemical as regular importers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

''(3) The Attorney General may require that the notification requirement of subsection (a) for certain importations or exportations, including those subject to section 1004 of this title, include additional information to enable a determination to be made that the listed chemical being imported or exported will be used for a legitimate purpose or when such information is needed to satisfy requirements of the importing or exporting country. The Attorney General will provide notice of these additional requirements specifically identifying the listed chemicals and countries involved.''.

(b) TRANSSHIPMENT.—Section 1004 of the Controlled Substances Import and Export Act (21 U.S.C. 954) is amended to read as follows:

''§ 954. Transshipment and in-transit shipment of controlled substances

''(a) Notwithstanding sections 952, 953, 957 and 971 of this title, except as provided below—

''(1) A controlled substance in schedule I may be imported into the United States—

''(A) for transshipment to another country, or

''(B) for transference or transshipment from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation, if and only if (i) evidence is furnished which enables the Attorney General to determine that the substance being so imported, transferred, or transshipped will be used for scientific, medical, or other legitimate purposes in the country of destination, and (ii) it is so imported, transferred, or transshipped with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request) based on a determination that the requirements of this section and the applicable subsections of sections 952 and 953 have been satisfied.

''(2) A controlled substance in schedule II, III, or IV or a listed chemical may be so imported, transferred, or transshipped if and only evidence is furnished which enables the Attorney General to determine that the substance or chemical being so imported, transferred, or transshipped will be used for scientific, medical, or other legitimate purposes in the country of destination and (ii) advance notification is given to the Attorney General not later than 15 days prior to the exportation of the substance or chemical from the foreign port of embarkation (the notification period for imports other than for transfer or transshipment pursuant to section 1002 or 1018 of this title is not affected by this subsection). Such notification shall be in such form and contain such information as the Attorney General may require by regulation.

''(b)(1) Any such importation, transfer or transshipment of a controlled substance shall be subject to the applicable subsections of sections 1002 and 1003 of this title. The importation, transfer, transshipment or exportation of any controlled substance may be suspended on the ground that the controlled substance may be diverted to other than scientific, medical or other legitimate purposes.

''(2) Any such importation, transfer or transshipment of a listed chemical shall be subject to all the requirements of section 1018 of this title, except that in no case shall the 15-day advance notification requirement be waived. The importation, transfer, transshipment or exportation of a listed chemical may be suspended on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance.

''(3) Any such importation, transfer or transshipment of a controlled substance or listed chemical may be suspended if any requirement of subsection (a) is not satisfied. The Attorney General may withdraw a suspension order issued under this paragraph if (A) the requirements of subsection (a) are ultimately satisfied and (B) no grounds exist under paragraphs (1) or (2) of this subsection to suspend the shipment.

''(c) The suspension of any exportation of a controlled substance or listed chemical will be subject to the procedures and requirements established in section 1018(c) of this title.

''(d) Any shipment of a controlled substance or listed chemical which has been imported or is subject to the jurisdiction of the United States whose importation, transfer, transshipment or exportation has been suspended may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any such controlled substance or listed chemical until the suspension order becomes final. However, a court, upon application therefor, may at any time order the sale of a perishable controlled substance or listed chemical. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a suspension order becoming final, the shipment may be disposed of as follows, at the discretion of the Attorney General and subject to such conditions as the Attorney General may impose:

''(1) The title holder may be allowed to return the shipment to any of the original exporter's facilities in the country of exportation;

''(2) The shipment may be exported, subject to the requirements of section 1003 or 1018 of this title, as appropriate, to a new consignee;

''(3) The shipment may be surrendered to the Attorney General for appropriate disposition; all costs associated with this disposition will be the responsibility of the title holder, however if there are any proceeds from the disposition, these will be applied to the repayment of the costs and any excess proceeds will be returned to the titleholder;

''(4) If sufficient cause exists, the shipment of controlled substances or listed chemicals (or proceeds of sale deposited in court) may be forfeited to the United States pursuant to section 511 of title II and may be disposed of in accordance with that section.

''(e) Nothing in this section may be used by any party to defend against a forfeiture action against a shipment of controlled substances or listed chemicals initiated by the United States or by any state. This section does not affect the liability of any party for storage and transportation costs incurred by the Government as a result of the suspension of a shipment.''.

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) by redesignating paragraphs (5), (6) and (7) as paragraphs (6), (7) and (8);

(2) in the redesignated paragraph (6), by striking ''1018(e)(2) or (3)'' and inserting ''1018(e)(4) or (5)'';

(3) in the redesignated paragraph (7), by inserting ''or violates section 1004 of this title,'' after ''1007 or 1018 of this title''; and

(4) by inserting after paragraph (4) a new paragraph (5) as follows:

''(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation is not subject to the 15-day advance notification required by section 1018(a) or to any reporting requirements established by the Attorney General pursuant to section 1018(e)(1), (2) or (3) by misrepresenting the actual country of final destination of the listed chemical, or the actual listed chemical being imported or exported; or''.

(d) Section 1011 of the Controlled Substances Import and Export Act (21 U.S.C. 961) is amended to read as follows:

''§ 1011. Injunctions

''In addition to any other applicable penalty, any person convicted of a felony violation of this title or title II relating to the receipt, distribution, manufacture, importation or exportation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.''.

Subtitle D—Deterring Cargo Theft

SEC. 2351. PUNISHMENT OF CARGO THEFT.

(a) IN GENERAL.—Section 659 of title 18, United States Code, is amended—

(1) by striking ''with intent to convert to his own use'' each place that term appears;

(2) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(3) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years'';

(4) in the penultimate undesignated paragraph, by inserting after the first sentence the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''; and

(5) by adding at the end the following:

''It shall be an affirmative defense (on which the defendant bears the burden of persuasion by a preponderance of the evidence) to an offense under this section that the defendant bought, received, or possessed the goods, chattels, money, or baggage at issue with the sole intent to report the matter to an appropriate law enforcement officer or to the owner of the goods, chattels, money, or baggage.''.

(b) FEDERAL SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal sentencing guidelines under section 659 of title 18, United States Code, as amended by this section and, upon completion of the review, promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement of the applicable guidelines.

SEC. 2352. REPORTS TO CONGRESS ON CARGO THEFT.

The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this subtitle.

SEC. 2353. ESTABLISHMENT OF ADVISORY COMMITTEE ON CARGO THEFT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Committee to be known as the Advisory Committee on Cargo Theft (in this section referred to as the ''Committee'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 6 members, who shall be appointed by the President, of whom—

(i) 1 shall be an officer or employee of the Department of Justice;

(ii) 1 shall be an officer or employee of the Department of Transportation;

(iii) 1 shall be an officer or employee of the Department of the Treasury; and

(iv) 3 shall be individuals from the private sector who are experts in cargo security.

(B) DATE.—The appointments of the initial members of the Committee shall be made not later than 30 days after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Each member of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 15 days after the date on which all initial members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The President shall select 1 member of the Committee to serve as the Chairperson of the Committee.

(b) DUTIES.—

(1) STUDY.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as added by section 3801(a) of this title); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of the study and the recommendations of the Committee under paragraph (1).

(c) POWERS.—

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Each member of the Committee who is an officer or employee of the United States shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION.—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(2).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SEC. 2354. ADDITION OF ATTEMPTED THEFT AND COUNTERFEITING OFFENSES TO ELIMINATE GAPS AND INCONSISTENCIES IN COVERAGE.

(a) IN GENERAL.—

(1) EMBEZZLEMENT AGAINST ESTATE.—Section 153(a) of title 18, United States Code, is amended by inserting '', or attempts so to appropriate, embezzle, spend, or transfer,'' before ''any property''.

(2) PUBLIC MONEY.—Section 641 of title 18, United States Code, is amended by striking ''or'' at the end of the first paragraph and by inserting after such paragraph the following: ''Whoever attempts to commit an offense described in the preceding paragraph; or''.

(3) THEFT BY BANK EXAMINER.—Section 655 of title 18, United States Code, is amended by inserting ''or attempts to steal or so take,'' after ''unlawfully takes,''.

(4) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Sections 656 and 657 of title 18, United States Code, are each amended—

(A) by inserting '', or attempts to embezzle, abstract, purloin, or willfully misapply,'' after ''willfully misapplies''; and

(B) by inserting ''or attempted to be embezzled, abstracted, purloined, or misapplied'' after ''misapplied''.

(5) PROPERTY MORTGAGED OR PLEDGED TO FARM CREDIT AGENCIES.—Section 658 of title 18, United States Code, is amended by inserting ''or attempts so to remove, dispose of, or convert,'' before ''any property''.

(6) INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(A) in the first and third paragraphs, by inserting ''or attempts to embezzle, steal, or so take or carry away,'' after ''carries away,''; and

(B) in the fourth paragraph by inserting ''or attempts to embezzle, steal, or so take,'' before ''from any railroad car''.

(7) WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 661 of title 18, United States Code, is amended—

(A) by inserting ''or attempts so to take and carry away,'' before ''any personal property''; and

(B) by inserting ''or attempted to be taken'' after ''taken'' each place it appears.

(8) THEFT OR EMBEZZLEMENT FROM EMPLOYEE BENEFIT PLANS.—Section 664 of title 18, United States Code, is amended by inserting ''or attempts to embezzle, steal, or so abstract or convert,'' before ''any of the moneys''.

(9) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS.—Section 665(a) of title 18, United States Code, is amended—

(A) by inserting '', or attempts to embezzle, so misapply, steal, or obtain by fraud,'' before ''any of the moneys''; and

(B) by inserting ''or attempted to be embezzled, misapplied, stolen, or obtained by fraud'' after ''obtained by fraud''.

(10) THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(a)(1)(A) of title 18, United States Code, is amended by inserting ''or attempts to embezzle, steal, obtain by fraud, or so convert or misapply,'' before ''property''.

(11) FALSE PRETENSES ON HIGH SEAS.—Section 1025 of title 18, United States Code, is amended—

(A) by inserting ''or attempts to obtain'' after ''obtains''; and

(B) by inserting ''or attempted to be obtained'' after ''obtained''.

(12) EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by inserting ''attempts so to embezzle, steal, convert, or misapply,'' after ''willfully misapplies,''.

(13) THEFT FROM GROUP ESTABLISHMENTS ON INDIAN LANDS.—Section 1167 (a) and (b) of title 18, United States Code, are each amended by inserting ''or attempts so to abstract, purloin, misapply, or take and carry away,'' before ''any money''.

(14) THEFT BY OFFICERS AND EMPLOYEES OF GAMING ESTABLISHMENTS ON INDIAN LANDS.—Section 1168 (a) and (b) of title 18, United States Code, are each amended by inserting ''or attempts so to embezzle, abstract, purloin, misapply, or take and carry away,'' before ''any moneys,''.

(15) THEFT OF PROPERTY USED BY THE POSTAL SERVICE.—Section 1707 of title 18, United States Code, is amended by inserting '', or attempts to steal, purloin, or embezzle,'' before ''any property'' and by inserting ''or attempts to appropriate'' after ''appropriates''.

(16) THEFT IN RECEIPT OF STOLEN MAIL MATTER.—Section 1708 of title 18, United States Code, is amended in the second paragraph by inserting ''or attempts to steal, take, or abstract,'' after ''abstracts,'' and by inserting '', or attempts so to obtain,'' after ''obtains''.

(17) THEFT OF MAIL MATTER BY OFFICER OR EMPLOYEE.—Section 1709 of title 18, United States Code, is amended—

(A) by inserting ''or attempts to embezzle'' after ''embezzles''; and

(B) by inserting '', or attempts to steal, abstract, or remove,'' after ''removes''.

(18) MISAPPROPRIATION OF POSTAL FUNDS.—Section 1711 of title 18, United States Code, is amended by inserting ''or attempts to loan, use, pledge, hypothecate, or convert to his own use,'' after ''use''.

(19) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2113(b) of title 18, United States Code, is amended by inserting ''or attempts so to take and carry away,'' before ''any property'' each place it appears.

(b) SECURITIES CRIMES.—

(1) POSSESSION OF TOOLS.—Section 477 of title 18, United States Code, is amended by inserting '', or attempts so to sell, give, or deliver,'' before ''any such imprint''.

(2) UTTERING COUNTERFEIT FOREIGN OBLIGATIONS OR SECURITIES.—Section 479 of title 18, United States Code, is amended by inserting ''or attempts to utter or pass,'' after ''passes,''.

(3) MINOR COINS.—Section 490 of title 18, United States Code, is amended by inserting

''attempts to pass, utter, or sell,'' before ''or possesses''.

(4) SECURITIES OF STATES AND PRIVATE ENTITIES.—Section 513(a) of title 18, United States Code, is amended by inserting ''or attempts to utter,'' after ''utters''.

SEC. 2355. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking ''so''.

SEC. 2356. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking ''or'' before ''any building'';

(2) by inserting ''or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service,'' after ''used in whole or in part as a post office,''; and

(3) by inserting ''or in such box or machine,'' after ''so used''.

SEC. 2357. EXPANSION OF FEDERAL THEFT OFFENSES TO COVER THEFT OF VESSELS.

(a) VESSEL DEFINED.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(b) TRANSPORTATION OF STOLEN VEHICLES; SALE OR RECEIPT OF STOLEN VEHICLES.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

Subtitle E—Improvements to Federal Criminal Law

PART 1—SENTENCING IMPROVEMENTS

SEC. 2411. APPLICATION OF SENTENCING GUIDELINES TO ALL PERTINENT STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of any Federal statute''.

SEC. 2412. DOUBLING MAXIMUM PENALTY FOR VOLUNTARY MANSLAUGHTER.

Section 1112(b) of title 18, United States Code, is amended by striking ''ten years'' and inserting ''20 years''.

SEC. 2413. AUTHORIZATION OF IMPOSITION OF BOTH A FINE AND IMPRISONMENT RATHER THAN ONLY EITHER PENALTY IN CERTAIN OFFENSES.

(a) POWER OF COURT.—Section 401 of title 18, United States Code, is amended by inserting ''or both,'' after ''fine or imprisonment,''.

(b) DESTRUCTION OF LETTER BOXES OR MAIL.—Section 1705 of title 18, United States Code, is amended by inserting '', or both'' after ''years''.

(c) OTHER SECTIONS.—Sections 1916, 2234, and 2235 of title 18, United States Code, are each amended by inserting '', or both'' after ''year''.

SEC. 2414. ADDITION OF SUPERVISED RELEASE VIOLATION AS PREDICATES FOR CERTAIN OFFENSES.

(a) IN GENERAL.—Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b)(2) are each amended by striking ''violation of conditions of probation, parole or release pending judicial proceedings'' and inserting ''violation of conditions of probation, supervised release, parole, or release pending judicial proceedings''.

(b) RELEASE OR DETENTION OF DEFENDANT PENDING TRIAL.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1)(A)(iii), by inserting '', supervised release,'' after ''probation''; and

(2) in subsection (g)(3)(B), by inserting ''or supervised release'' after ''probation''.

SEC. 2415. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting ''(and may impose a sentence of probation or supervised release with or without conditions)'' after ''may reduce the term of imprisonment''.

SEC. 2416. ELIMINATION OF PROOF OF VALUE REQUIREMENT FOR FELONY THEFT OR CONVERSION OF GRAND JURY MATERIAL.

Section 641 of title 18, United States Code, is amended by striking ''but if the value of such property does not exceed the sum of $1,000, he'' and inserting ''but if the value of such property, other than property constituting 'matters occurring before the grand jury' within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure, does not exceed the sum of $1,000,''.

SEC. 2417. INCREASED MAXIMUM CORPORATE PENALTY FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

(c) OTHER RESTRAINTS.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

SEC. 2418. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR COUNTERFEIT BEARER OBLIGATIONS OF THE UNITED STATES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and if appropriate, amend the Federal sentencing guidelines generally to enhance the penalty for offenses involving counterfeit bearer obligation of the United States.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the Commission shall consider, with respect to the offenses described in subsection (a)—

(1) whether the base offense level in the current guidelines is adequate to address the serious nature of these offenses and the public interest in protecting the integrity of United States currency, especially in light of recent technological advancements in counterfeiting methods that decrease the cost and increase the availability of such counterfeiting methods to criminals;

(2) whether the current specific offense characteristic applicable to manufacturing counterfeit obligations fails to take into account the range of offenses in this category; and

(3) any other factor that the Commission considers to be appropriate.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as is practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

PART 2—ADDITIONAL IMPROVEMENTS TO FEDERAL CRIMINAL LAW

SEC. 2421. VIOLENCE DIRECTED AT DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting ''or 1363'' after ''section 661''.

SEC. 2422. CORRECTIONS TO AMBER HAGERMAN CHILD PROTECTION ACT.

(a) AGGRAVATED SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking ''younger than that person'' and inserting ''younger than the person so engaging''.

(b) SEXUAL ABUSE OF A MINOR OR WARD.—Section 2243(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''Except as provided in section 2241(c) of this title, whoever''; and

(2) by striking ''crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or''.

(c) DEFINITIONS.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the period and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.''.

SEC. 2423. ELIMINATION OF "BODILY HARM" ELEMENT IN ASSAULT WITH A DANGEROUS WEAPON OFFENSE.

Section 113(a)(3) of title 18, United States Code, is amended by striking ''with intent to do bodily harm, and''.

SEC. 2424. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ''or any part thereof'' after ''as to any one or more counts''.

SEC. 2425. AUTHORITY FOR INJUNCTION AGAINST DISPOSAL OF ILL-GOTTEN GAINS FROM VIOLATIONS OF FRAUD STATUTES.

Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''violation of this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title or of a'' after ''as a result of a''.

SEC. 2426. EXPANSION OF INTERSTATE TRAVEL FRAUD STATUTE TO COVER INTERSTATE TRAVEL BY PERPETRATOR.

Section 2314 of title 18, United States Code, is amended in the second undesignated paragraph—

(1) by inserting ''travels in,'' before ''transports or causes to be transported, or induce any person or persons to travel in''; and

(2) by inserting a comma after ''transports''.

SEC. 2427. CLARIFICATION OF SCOPE OF UNAUTHORIZED SELLING OF MILITARY MEDALS OR DECORATIONS.

Section 704(b)(2) of title 18, United States Code, is amended by striking ''with respect to a Congressional Medal of Honor''.

SEC. 2428. AMENDMENT TO SECTION 669 TO CONFORM TO PUBLIC LAW 104–294.

Section 669 of title 18, United States Code, is amended by striking ''$100'' and inserting ''$1,000''.

SEC. 2429. EXPANSION OF JURISDICTION OVER CHILD BUYING AND SELLING OFFENSES.

Section 2251A(c)(3) of title 18, United States Code, is amended by striking ''in any territory or possession of the United States'' and inserting ''in the special maritime and territorial jurisdiction of the United States or in any commonwealth, territory, or possession of the United States''.

SEC. 2430. LIMITS ON DISCLOSURE OF WIRETAP ORDERS.

Section 2518(9) of title 18, United States Code, is amended by inserting ''aggrieved'' before the word ''party'' wherever it appears.

SEC. 2431. PRISON CREDIT AND AGING PRISONER REFORM.

(a) PRISON CREDITS IN GENERAL.—Section 3585(b) of title 18, United States Code, is amended to read as follows:

''(b) CREDIT FOR PRIOR CUSTODY.—A defendant shall be given credit toward the service of a term of imprisonment for any time spent in official detention prior to the date the sentence commences only if that official detention is as a result of the offense for which the sentence was imposed and has not been—

''(1) credited toward another sentence; or

''(2) applied in any manner to an undischarged concurrent term of imprisonment.''.

(b) GOOD TIME CREDITS FOR FOREIGN PRISONERS TRANSFERRED TO THE UNITED STATES.—Section 4105(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''by the Bureau of Prisons and deducted from the sentence imposed by the foreign court'' after ''These credits shall be combined'';

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following:

''(3) If the term of imprisonment under section 4106A(b)(1)(A) is less than or equal to the total sentence imposed and certified by the foreign authorities on the basis of considerations other than the limitation arising under section 4106A(b)(1)(C), the Bureau of Prisons shall calculate credits for satisfactory behavior at the rate provided in section 3624(b) and computed on the basis of the term of imprisonment under section 4106A(b)(1)(A). If the credits calculated under this paragraph produce a release date that is earlier than the release date otherwise determined under this section, the release date calculated under this paragraph shall apply to the transferred offender.

''(4) Upon release from imprisonment, the offender shall commence service of any period of supervised release established pursuant to section 4106A(b)(1)(A), and the balance of the foreign sentence remaining at the time of release from prison shall not be reduced by credits for satisfactory behavior, or labor, or any other credit that has been applied to establish the offender's release date.''.

(c) CONFORMING AMENDMENT.—Section 4106A(b)(1)(A) of title 18, United States Code, is amended by striking ''release date'' and inserting ''term of imprisonment''.

(d) EXPANSION OF PROVISION ALLOWING FOR RELEASE OF NONDANGEROUS OFFENDERS WHO HAVE SERVED AT LEAST 30 YEARS IN PRISON AND ARE AT LEAST 70 YEARS OLD.—Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) by inserting ''(and may impose a sentence of probation or supervised release with or without conditions)'' after ''may reduce the term of imprisonment'';

(2) in subparagraph (ii), by inserting ''(other than an offense or offenses under chapter 109A of this title)'' after ''the offense or offenses''; and

(3) in subparagraph (ii), by striking '', pursuant to a sentence imposed under section 3559(c),''.

SEC. 2432. MIRANDA REAFFIRMATION.

Section 3501 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

TITLE III—PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A—Crime Victims Assistance

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the ''Crime Victims Assistance Act of 2001''.

PART 1—VICTIM RIGHTS

SEC. 3111. RIGHT TO NOTICE AND TO BE HEARD CONCERNING DETENTION.

(a) IN GENERAL.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (g)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

''(4) the views of the victim; and''; and

(2) by adding at the end the following:

''(k) NOTICE AND RIGHT TO BE HEARD.—

''(1) IN GENERAL.—Subject to paragraph (2), with respect to each hearing under subsection (f)—

''(A) before the hearing, the Government shall make reasonable efforts to notify the victim of—

''(i) the date and time of the hearing; and

''(ii) the right of the victim to be heard on the issue of detention; and

''(B) at the hearing, the court shall inquire of the Government whether the victim wishes to be heard on the issue of detention and, if so, shall afford the victim such an opportunity.

''(2) EXCEPTIONS.—The requirements of paragraph (1) shall not apply to any case in which the Government or the court reasonably believes—

''(A) available evidence raises a significant expectation of physical violence or other retaliation by the victim against the defendant; or

''(B) identification of the defendant by the victim is a fact in dispute, and no means of verification has been attempted.''.

(b) VICTIM DEFINED.—Section 3156(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) the term 'victim'—

''(A) means an individual harmed as a result of a commission of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault; and

''(B) includes—

''(i) in the case of a victim who is less than 18 years of age or incompetent, the parent or legal guardian of the victim;

''(ii) in the case of a victim who is deceased or incapacitated, 1 or more family members designated by the court; and

''(iii) any other person appointed by the court to represent the victim.''.

SEC. 3112. RIGHT TO A SPEEDY TRIAL.

Section 3161(h)(8)(B) of title 18, United States Code, is amended by adding at the end the following:

''(v) The interests of the victim (or the family of a victim who is deceased or incapacitated) in the prompt and appropriate disposition of the case, free from unreasonable delay.''.

SEC. 3113. RIGHT TO NOTICE AND TO BE HEARD CONCERNING PLEA.

(a) IN GENERAL.—Rule 11 of the Federal Rules of Criminal Procedure is amended—

(1) by redesignating subdivision (h) as subdivision (i); and

(2) by inserting after subdivision (g) the following:

''(h) RIGHTS OF VICTIMS.—

''(1) VICTIM DEFINED.—In this subdivision, the term 'victim' means an individual harmed as a result of a commission of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, and also includes—

''(A) in the case of a victim who is less than 18 years of age or incompetent, the parent or legal guardian of the victim;

''(B) in the case of a victim who is deceased or incapacitated, 1 or more family members designated by the court; and

''(C) any other person appointed by the court to represent the victim.

''(2) NOTICE.—The Government, before a proceeding at which a plea of guilty or nolo contendere is entered, shall make reasonable efforts to notify the victim of—

''(A) the date and time of the proceeding;

''(B) the elements of the proposed plea or plea agreement;

''(C) the right of the victim to attend the proceeding; and

''(D) the right of the victim to address the court personally, through counsel, or in writing on the issue of the proposed plea or plea agreement.

''(3) OPPORTUNITY TO BE HEARD.—The court, before accepting a plea of guilty or nolo contendere, shall afford the victim an opportunity to be heard, personally, through counsel, or in writing, on the proposed plea or plea agreement.

''(4) EXCEPTIONS.—Notwithstanding any other provision of this subdivision—

''(A) in any case in which a victim is a defendant in the same or a related case, or in which the Government certifies to the court under seal that affording such victim any right provided under this rule will jeopardize an ongoing investigation, the victim shall not have such right;

''(B) a victim who, at the time of a proceeding at which a plea of guilty or nolo contendere is entered, is incarcerated in any Federal, State, or local correctional or detention facility, shall not have the right to appear in person, but, subject to subparagraph (A), shall be afforded a reasonable opportunity to present views or participate by alternate means; and

''(C) in any case involving more than 15 victims, the court, after consultation with the Government and the victims, may appoint a number of victims to represent the interests of the victims, except that all victims shall retain the right to submit a written statement under paragraph (2).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to be heard on the issue of whether or not the court should accept a plea of guilty or nolo contendere.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (a), then the

amendments made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3114. ENHANCED PARTICIPATORY RIGHTS AT TRIAL.

(a) AMENDMENT TO VICTIM RIGHTS CLARIFICATION ACT.—Section 3510 of title 18, United States Code, is amended by adding at the end the following:

''(d) APPLICATION TO TELEVISED PROCEEDINGS.—This section applies to any victim viewing proceedings pursuant to section 235 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608), or any rule issued thereunder.''.

(b) AMENDMENT TO VICTIMS' RIGHTS AND RESTITUTION ACT OF 1990.—Section 502(b) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606(b)) is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim at trial would be materially affected if the victim heard the testimony of other witnesses.''; and

(2) in paragraph (5), by striking ''attorney'' and inserting ''the attorney''.

SEC. 3115. RIGHT TO NOTICE AND TO BE HEARD CONCERNING SENTENCE.

(a) ENHANCED NOTICE AND CONSIDERATION OF VICTIMS' VIEWS.—

(1) IMPOSITION OF SENTENCE.—Section 3553(a) of title 18, United States Code, is amended—

(A) in paragraph (6), by striking ''and'' at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) the views of any victims of the offense, if such views are presented to the court; and''.

(2) ISSUANCE AND ENFORCEMENT OF ORDER OF RESTITUTION.—Section 3664(d)(2)(A) of title 18, United States Code is amended—

(A) by redesignating clauses (v) and (vi) as clauses (vii) and (viii) respectively; and

(B) by inserting after clause (iv) the following:

''(v) the opportunity of the victim to attend the sentencing hearing;

''(vi) the opportunity of the victim, personally or through counsel, to make a statement or present any information to the court in relation to the sentence;''.

(b) ENHANCED PARTICIPATORY RIGHTS.—Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (b)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(B) by inserting after paragraph (3) the following:

''(4) NOTICE TO VICTIM.—The probation officer must, before submitting the presentence report, provide notice to the victim as provided by section 3664(d)(2)(A) of title 18, United States Code.''; and

(C) in paragraph (5), as redesignated—

(i) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(ii) by inserting after subparagraph (D) the following:

''(E) any victim impact statement submitted by a victim to the probation officer;'';

(2) in subdivision (c)(3), by striking subparagraph (E) and inserting the following:

''(E) afford the victim, personally or through counsel, an opportunity to make a statement or present any information in relation to the sentence, including information concerning the extent and scope of the victim's injury or loss, and the impact of the offense on the victim or the family of the victim, except that the court may reasonably limit the number of victims permitted to address the court if the number is so large that affording each victim such right would result in cumulative victim impact information or would unreasonably prolong the sentencing process.''; and

(3) in subdivision (f)(1)—

(A) by striking ''the right of allocution under subdivision (c)(3)(E)'' and inserting ''the notice and participatory rights under subdivisions (b)(4) and (c)(3)(E)''; and

(B) by striking ''if such person or persons are present at the sentencing hearing, regardless of whether the victim is present;''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (b) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to participate during the presentencing and sentencing phase of the criminal process.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (b), then the amendments made by subsection (b) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (b), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (b) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3116. RIGHT TO NOTICE AND TO BE HEARD CONCERNING SENTENCE ADJUSTMENT.

(a) IN GENERAL.—Rule 32.1(a) of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

''(3) NOTICE TO VICTIM.—At any hearing pursuant to paragraph (2) involving 1 or more persons who have been convicted of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, the Government shall make reasonable efforts to notify the victim of the offense (and the victim of any new charges giving rise to the hearing), of—

''(A) the date and time of the hearing; and

''(B) the right of the victim to attend the hearing and to address the court regarding whether the terms or conditions of probation or supervised release should be modified.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to ensure that reasonable efforts are made to notify victims of violent offenses of any revocation hearing held pursuant to Rule 32.1(a)(2), and to afford such victims an opportunity to participate.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendment made by subsection (a), then the amendment made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendment made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendment made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3117. RIGHT TO NOTICE OF RELEASE OR ESCAPE.

(a) IN GENERAL.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"§ 3627. Notice to victims of release or escape of defendants

''(a) IN GENERAL.—The Bureau of Prisons shall ensure that reasonable notice is provided to each victim of an offense for which a person is in custody pursuant to this subchapter—

''(1) not less than 30 days before the release of such person under section 3624, assignment of such person to pre-release custody under section 3624(c), or transfer of such person under section 3623;

''(2) not less than 10 days before the temporary release of such person under section 3622;

''(3) not later than 12 hours after discovery that such person has escaped;

''(4) not later than 12 hours after the return to custody of such person after an escape; and

''(5) at such other times as may be reasonable before any other form of release of such person as may occur.

''(b) APPLICABILITY.—This section applies to any escape, work release, furlough, or any other form of release from a psychiatric institution or other facility that provides mental or other health services to persons in the custody of the Bureau of Prisons.

''(c) VICTIM CONTACT INFORMATION.—It shall be the responsibility of a victim to notify the Bureau of Prisons, by means of a form to be provided by the Attorney General, of any change in the mailing address of the victim, or other means of contacting the victim, while the defendant is in the custody of the Bureau of Prisons. The Bureau of Prisons shall ensure the confidentiality of any information relating to a victim.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

''3627. Notice to victims of release or escape of defendants.''.

SEC. 3118. RIGHT TO NOTICE AND TO BE HEARD CONCERNING EXECUTIVE CLEMENCY.

(a) NOTIFICATION.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding after section 3627, as added by section 3117, the following:

"§ 3628. Notice to victims concerning grant of executive clemency

''(a) DEFINITIONS.—In this section—

''(1) the term 'executive clemency'—

''(A) means any exercise by the President of the power to grant reprieves and pardons under clause 1 of section 2 of article II of the Constitution of the United States; and

''(B) includes any pardon, reprieve, commutation of sentence, or remission of fine; and

''(2) the term 'victim' has the same meaning given that term in section 503(e) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)).

''(b) NOTICE OF GRANT OF EXECUTIVE CLEMENCY.—

''(1) If a petition for executive clemency is granted, the Attorney General shall make reasonable efforts to notify any victim of any offense that is the subject of the grant of executive clemency that such grant has been made as soon as practicable after that grant is made.

''(2) If a grant of executive clemency will result in the release of any person from custody, notice under paragraph (1) shall be prior to that release from custody, if practicable.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

''3628. Notice to victims concerning grant of executive clemency.''.

(c) REPORTING REQUIREMENTS.—The Attorney General shall submit biannually to the Committees on the Judiciary of the House of Representatives and the Senate a report on executive clemency matters or cases delegated for review or investigation to the Attorney General by the President, including for each year—

(1) the number of petitions so delegated;

(2) the number of reports submitted to the President;

(3) the number of petitions for executive clemency granted and the number denied;

(4) the name of each person whose petition for executive clemency was granted or denied and the offenses of conviction of that person for which executive clemency was granted or denied; and

(5) with respect to any person granted executive clemency, the date that any victim of an offense that was the subject of that grant of executive clemency was notified, pursuant to Department of Justice regulations, of a petition for executive clemency, and whether such victim submitted a statement concerning the petition.

(d) SENSE OF CONGRESS CONCERNING THE RIGHT OF VICTIMS TO NOTICE AND TO BE HEARD CONCERNING EXECUTIVE CLEMENCY.—It is the sense of Congress that—

(1) victims of a crime should be notified about any petition for executive clemency filed by the perpetrators of that crime and provided an opportunity to submit a statement concerning the petition to the President; and

(2) the Attorney General should promulgate regulations or internal guidelines to ensure that such notification and opportunity to submit a statement are provided.

SEC. 3119. REMEDIES FOR NONCOMPLIANCE.

(a) GENERAL LIMITATION.—Any failure to comply with any amendment made by this part shall not give rise to a claim for damages, or any other action against the United States, or any employee of the United States, any court official or officer of the court, or an entity contracting with the United States, or any action seeking a rehearing or other reconsideration of action taken in connection with a defendant.

(b) REGULATIONS TO ENSURE COMPLIANCE.—

(1) IN GENERAL.—Notwithstanding subsection (a), not later than 1 year after the date of enactment of this Act, the Attorney General of the United States and the Chairman of the United States Parole Commission shall promulgate regulations to implement and enforce the amendments made by this title.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice (including employees of the United States Parole Commission) who willfully or repeatedly violate the amendments made by this title, or willfully or repeatedly refuse or fail to comply with provisions of Federal law pertaining to the treatment of victims of crime;

(B) include an administrative procedure through which parties can file formal complaints with the Department of Justice alleging violations of the amendments made by this title;

(C) provide that a complainant is prohibited from recovering monetary damages against the United States, or any employee of the United States, either in his official or personal capacity; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and there shall be no judicial review of the final decision of the Attorney General by a complainant.

PART 2—VICTIM ASSISTANCE INITIATIVES

SEC. 3121. PILOT PROGRAMS TO ESTABLISH OMBUDSMAN PROGRAMS FOR CRIME VICTIMS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Victims of Crime.

(2) OFFICE.—The term ''Office'' means the Office for Victims of Crime.

(3) QUALIFIED PRIVATE ENTITY.—The term ''qualified private entity'' means a private entity that meets such requirements as the Attorney General, acting through the Director, may establish.

(4) QUALIFIED UNIT OF STATE OR LOCAL GOVERNMENT.—The term ''local government'' means a unit of a State or local government, including a State court, that meets such requirements as the Attorney General, acting through the Director, may establish.

(5) VOICE CENTERS.—The term ''VOICE Centers'' means the Victim Ombudsman Information Centers established under the program under subsection (b).

(b) PILOT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Attorney General, acting through the Director, shall establish and carry out a program to provide for pilot programs to establish and operate Victim Ombudsman Information Centers in each of the following States:

(A) Iowa.

(B) Massachusetts.

(C) Maryland.

(D) Vermont.

(E) Virginia.

(F) Washington.

(G) Wisconsin.

(2) AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, acting through the Director, shall enter into an agreement with a qualified private entity or unit of State or local government to conduct a pilot program referred to in paragraph (1). Under the agreement, the Attorney General, acting through the Director, shall provide for a grant to assist the qualified private entity or unit of State or local government in carrying out the pilot program.

(B) CONTENTS OF AGREEMENT.—The agreement referred to in subparagraph (A) shall specify that—

(i) the VOICE Center shall be established in accordance with this section; and

(ii) except with respect to meeting applicable requirements of this section concerning carrying out the duties of a VOICE Center under this section (including the applicable reporting duties under subsection (c) and the terms of the agreement) each VOICE Center shall operate independently of the Office.

(C) NO AUTHORITY OVER DAILY OPERATIONS.—The Office shall have no supervisory or decisionmaking authority over the day-to-day operations of a VOICE Center.

(c) OBJECTIVES.—

(1) MISSION.—The mission of each VOICE Center established under a pilot program under this section shall be to assist a victim of a Federal or State crime to ensure that the victim—

(A) is fully apprised of the rights of that victim under applicable Federal or State law; and

(B) is provided the opportunity to participate in the criminal justice process to the fullest extent of the law.

(2) DUTIES.—The duties of a VOICE Center shall include—

(A) providing information to victims of Federal or State crime regarding the right of those victims to participate in the criminal justice process (including information concerning any right that exists under applicable Federal or State law);

(B) identifying and responding to situations in which the rights of victims of crime under applicable Federal or State law may have been violated;

(C) attempting to facilitate compliance with Federal or State law referred to in subparagraph (B);

(D) educating police, prosecutors, Federal and State judges, officers of the court, and employees of jails and prisons concerning the rights of victims under applicable Federal or State law; and

(E) taking measures that are necessary to ensure that victims of crime are treated with fairness, dignity, and compassion throughout the criminal justice process.

(d) OVERSIGHT.—

(1) TECHNICAL ASSISTANCE.—The Office may provide technical assistance to each VOICE Center.

(2) ANNUAL REPORT.—Each qualified private entity or qualified unit of State or local government that carries out a pilot program to establish and operate a VOICE Center under this section shall prepare and submit to the Director, not later than 1 year after the VOICE Center is established, and annually thereafter, a report that—

(A) describes in detail the activities of the VOICE Center during the preceding year; and

(B) outlines a strategic plan for the year following the year covered under subparagraph (A).

(e) REVIEW OF PROGRAM EFFECTIVENESS.—

(1) GAO STUDY.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Comptroller General of the United States shall conduct a review of each pilot program carried out under this section to determine the effectiveness of the VOICE Center that is the subject of the pilot program in carrying out the mission and duties described in subsection (c).

(2) OTHER STUDIES.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Attorney General, acting through the Director, shall enter into an agreement with 1 or more private entities that meet such requirements that the Attorney General, acting through the Director, may establish, to study the effectiveness of each VOICE Center established by a pilot program under this section in carrying out the mission and duties described in subsection (c).

(f) TERMINATION DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a pilot program established under this section shall terminate on the date that is 4 years after the date of enactment of this Act.

(2) RENEWAL.—If the Attorney General determines that any of the pilot programs established under this section should be renewed for an additional period, the Attorney General may renew that pilot program for a period not to exceed 2 years.

(g) FUNDING.—Notwithstanding any other provision of law, an aggregate amount not to exceed $5,000,000 of the amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the ''False Claims Act''), may be used by the Director to make grants under subsection (b).

SEC. 3122. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) CRIME VICTIMS FUND.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) any gifts, bequests, or donations from private entities or individuals.''; and

(2) in subsection (d)—

(A) in paragraph (4)—

(i) in subparagraph (A), by striking ''48.5'' and inserting ''47.5'';

(ii) in subparagraph (B), by striking ''48.5'' and inserting ''47.5''; and

(iii) in subparagraph (C), by striking ''3'' and inserting ''5''; and

(B) in paragraph (5), by adding at the end the following:

''(C) Any State that receives supplemental funding to respond to incidents or terrorism or mass violence under this section shall be required to return to the Crime Victims Fund for deposit in the reserve fund, amounts subrogated to the State as a result of third-party payments to victims.''.

(b) CRIME VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended—

(1) in subsection (a)—

(A) in each of paragraphs (1) and (2), by striking ''40'' and inserting ''60''; and

(B) in paragraph (3)—

(i) by striking ''5'' and inserting ''10''; and

(ii) by inserting ''and evaluation'' after ''administration''; and

(2) in subsection (b)—

(A) in paragraph (7), by inserting ''because the identity of the offender was not determined beyond a reasonable doubt in a criminal trial, because criminal charges were not brought against the offender, or'' after ''deny compensation to any victim'';

(B) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(C) by inserting after paragraph (7) the following:

''(8) such program does not discriminate against victims because they oppose the death penalty or disagree with the way the State is prosecuting the criminal case.''.

(c) CRIME VICTIM ASSISTANCE.—Section 1404 of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended—

(1) in subsection (b)(3), by striking ''5'' and inserting ''10'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ''or enter into cooperative agreements'' after ''make grants'';

(ii) by striking subparagraph (A) and inserting the following:

''(A) for demonstration projects, evaluation, training, and technical assistance services to eligible organizations;'';

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) training and technical assistance that address the significance of and effective delivery strategies for providing long-term psychological care.''; and

(B) in paragraph (3)—

(i) in subparagraph (C), by striking ''and'' at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(E) use funds made available to the Director under this subsection—

''(i) for fellowships and clinical internships; and

''(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.''; and

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

''(1) the term 'State' includes—

''(A) the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other territory or possession of the United States; and

''(B) for purposes of a subgrant under subsection (a)(1) or a grant or cooperative agreement under subsection (c)(1), the United States Virgin Islands and any agency of the Government of the District of Columbia or the Federal Government performing law enforcement functions in and on behalf of the District of Columbia.'';

(B) in paragraph (2)—

(i) in subparagraph (C), by striking ''and'' at the end; and

(ii) by adding at the end the following:

''(E) public awareness and education and crime prevention activities that promote, and are conducted in conjunction with, the provision of victim assistance; and

''(F) for purposes of an award under subsection (c)(1)(A), preparation, publication, and distribution of informational materials and resources for victims of crime and crime victims organizations.'';

(C) by striking paragraph (4) and inserting the following:

''(4) the term 'crisis intervention services' means counseling and emotional support including mental health counseling, provided as a result of crisis situations for individuals, couples, or family members following and related to the occurrence of crime;'';

(D) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(6) for purposes of an award under subsection (c)(1), the term 'eligible organization' includes any—

''(A) national or State organization with a commitment to developing, implementing, evaluating, or enforcing victims' rights and the delivery of services;

''(B) State agency or unit of local government;

''(C) State court;

''(D) tribal organization;

''(E) organization—

''(i) described in section 501(c) of the Internal Revenue Code of 1986; and

''(ii) exempt from taxation under section 501(a) of such Code; or

''(F) other entity that the Director determines to be appropriate.''.

SEC. 3123. INCREASED TRAINING FOR LAW ENFORCEMENT OFFICERS AND COURT PERSONNEL TO RESPOND TO THE NEEDS OF CRIME VICTIMS.

Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the ''False Claims Act'') may be used by the Office for Victims of Crime to make grants to States, State courts, units of local government, and qualified private entities, to provide training and information to prosecutors, judges, law enforcement officers, probation officers, and other officers and employees of Federal and State courts to assist them in responding effectively to the needs of victims of crime.

SEC. 3124. INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

(a) IN GENERAL.—Subtitle A of title XXIII of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2077) is amended by adding at the end the following:

''SEC. 230103. STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office for Victims of Crime of the Department of Justice such sums as may be necessary for grants to Federal, State, and local prosecutors' offices and law enforcement agencies, Federal and State courts,

county jails, Federal and State correctional institutions, and qualified private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue.

''(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section.''.

(b) VIOLENT CRIME REDUCTION TRUST FUND.—Section 310004(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14214(d)) is amended—

(1) in the first paragraph designated as paragraph (15) (relating to the definition of the term ''Federal law enforcement program''), by striking ''and'' at the end;

(2) in the first paragraph designated as paragraph (16) (relating to the definition of the term ''Federal law enforcement program''), by striking the period at the end and inserting ''; and''; and

(3) by inserting after the first paragraph designated as paragraph (16) (relating to the definition of the term ''Federal law enforcement program'') the following:

''(17) section 230103.''.

PART 3—VICTIM-OFFENDER PROGRAMS: "RESTORATIVE JUSTICE"

SEC. 3131. PILOT PROGRAM AND STUDY ON EFFECTIVENESS OF RESTORATIVE JUSTICE APPROACH ON BEHALF OF VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the ''False Claims Act'') and amounts available in the Crime Victims Fund (42 U.S.C. 10601 et seq.), may be used by the Office of Justice Programs of the Department of Justice to make grants to States, State courts, units of local government, tribal governments, and qualified private entities for the establishment of pilot programs that implement balanced and restorative justice models in juvenile court settings.

(b) STUDY.—The Office of Justice Programs of the Department of Justice shall conduct a study and report to Congress not later than 2 years after the date of enactment of this Act on the effectiveness of restorative justice models utilized as a part of grants made pursuant to this section.

(c) CRITERIA.—The study shall—

(1) evaluate the success of models already implemented in the States;

(2) examine such factors as community restoration, victim restoration, offender accountability, offender training, and treatment; and

(3) contain recommendations of best practices.

(d) VOLUNTARY PROGRAMS.—Any program funded under this section shall be fully voluntary by both the victim and the offender, once the prosecuting agency has determined that the case is appropriate.

(e) DEFINITION OF BALANCED AND RESTORATIVE JUSTICE MODEL.—In this section, the term ''balanced and restorative justice model'' means programs served by the criminal justice system that utilize alternatives to incarceration where the purposes are to—

(1) protect the community served by the system and agencies;

(2) ensure accountability of the offender and the system;

(3) obligate the offender to pay restitution to the victim and/or the community; and

(4) equip juvenile offenders with the skills needed to live responsibly and productively.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Violence Against Women Act Enhancements

SEC. 3201. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.

(a) STATE SHELTER GRANTS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking ''populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation'' and inserting ''populations underserved because of race, ethnicity, age, disability, religion, alienage status, geographic location (including rural isolation), or language barriers, and any other populations determined by the Secretary to be underserved''.

(b) SECRETARIAL RESPONSIBILITIES.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking ''an employee'' and inserting ''1 or more employees'';

(2) by striking ''of this title.'' and inserting ''of this title, including carrying out evaluation and monitoring under this title.''; and

(3) by striking ''The individual'' and inserting ''Any individual''.

(c) RESOURCE CENTERS.—Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) in subsection (a)(2), by inserting ''on providing information, training, and technical assistance'' after ''focusing''; and

(2) in subsection (c), by adding at the end the following:

''(8) Providing technical assistance and training to local entities carrying out domestic violence programs that provide shelter, related assistance, or transitional housing assistance.

''(9) Improving access to services, information, and training, concerning family violence, within Indian tribes and Indian tribal agencies.

''(10) Providing technical assistance and training to appropriate entities to improve access to services, information, and training concerning family violence occurring in underserved populations.''.

(d) CONFORMING AMENDMENT.—Section 309(6) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(6)) is amended by striking ''the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands'' and inserting ''the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States''.

(e) REAUTHORIZATION.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $175,000,000 for each of fiscal years 2002 through 2005.

''(2) SOURCE OF FUNDS.—Amounts made available under paragraph (1) may be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211).'';

(2) in subsection (b), by striking ''under subsection 303(a)'' and inserting ''under section 303(a)'';

(3) in subsection (c), by inserting ''not more than the lesser of $7,500,000 or'' before ''5''; and

(4) by adding at the end the following:

''(f) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amounts appropriated under subsection (a) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this title.''.

(f) STATE DOMESTIC VIOLENCE COALITION GRANT ACTIVITIES.—Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) in subsection (a)(4), by striking ''underserved racial, ethnic or language-minority populations'' and inserting ''underserved populations described in section 303(a)(2)(C)''; and

(2) in subsection (c), by striking ''the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands'' and inserting ''the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States''.

SEC. 3202. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

''SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents—

''(1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

''(2) for whom emergency shelter services are unavailable or insufficient.

''(b) ASSISTANCE DESCRIBED.—Assistance provided under this section may include—

''(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

''(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

''(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

''(d) REPORTS.—

''(1) REPORT TO SECRETARY.—

''(A) IN GENERAL.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

''(B) CONTENTS.—Each report shall include information on—

''(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

''(ii) the number of months each individual or dependent received the assistance;

''(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

''(iv) the type of support services provided to each individual or dependent assisted under this section.

''(2) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

''(1) $25,000,000 for each of fiscal years 2002 through 2003; and

''(2) $30,000,000 for each of fiscal years 2004 and 2005.''.

SEC. 3203. FAMILY UNITY DEMONSTRATION PROJECT.

Section 31904(a) of the Family Unity Demonstration Project Act (42 U.S.C. 13883(a)) is amended—

(1) by striking ''1997'' and inserting ''2002'';

(2) by striking ''1998'' and inserting ''2003'';

(3) by striking ''1999'' and inserting ''2004''; and

(4) by striking ''2000'' and inserting ''2005''.

Subtitle C—Senior Safety

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the ''Seniors Safety Act of 2001''.

SEC. 3302. FINDINGS AND PURPOSES.

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

(1) The number of older Americans is growing both numerically and proportionally in the United States. Since 1990, the population of seniors has increased by almost 5,000,000, and is now 20.2 percent of the United States population.

(2) In 1997, 7 percent of victims of serious violent crime were age 50 or older.

(3) In 1997, 17.7 percent of murder victims were age 55 or older.

(4) According to the National Crime Victimization Survey, persons aged 50 and older experienced approximately 673,460 incidents of violent crime, including rape and sexual assaults, robberies and general assaults, during 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of Americans who are 50 years old or older feel afraid to walk alone at night in their own neighborhoods.

(7) Seniors over the age of 50 reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

(8) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(9) There has not been a comprehensive study of crimes committed against seniors since 1994.

(10) It has been estimated that approximately 43 percent of those turning 65 can expect to spend some time in a long-term care facility, and approximately 20 percent can expect to spend 5 years or longer in a such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the medicaid and medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper medicare benefit payments, due to inadvertent mistake, fraud and abuse, were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain high despite awareness of the problem.

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

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data to measure the extent of crimes committed against seniors and determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors and ensure appropriate restitution.

SEC. 3303. DEFINITIONS.

In this subtitle—

(1) the term ''crime'' means any criminal offense under Federal or State law;

(2) the term ''nursing home'' means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)); and

(3) the term ''senior'' means an individual who is more than 55 years of age.

PART 1—COMBATING CRIMES AGAINST SENIORS

SEC. 3311. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as 1 of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary, as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 3312. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 3313. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: ''If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.''.

SEC. 3314. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Fraud in relation to retirement arrangements

''(a) RETIREMENT ARRANGEMENT DEFINED.—In this section—

''(1) IN GENERAL.—The term 'retirement arrangement' means—

''(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

''(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

''(D) fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

''(2) EXCEPTION FOR GOVERNMENTAL PLAN.—Such term does not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))), except as provided in paragraph (1)(D).

''(3) CERTAIN ARRANGEMENTS INCLUDED.—Such term shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

''(b) PROHIBITION AND PENALTIES.—Whoever executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Attorney General may investigate any violation of and otherwise enforce this section.

''(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.''.

(b) TECHNICAL AMENDMENT.—Section 24(a)(1) of title 18, United States Code, is amended by inserting ''1348,'' after ''1347,''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Fraud in relation to retirement arrangements.''.

SEC. 3315. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL.—

(1) ACTION BY ATTORNEY GENERAL.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1348 of title 18, United States Code, or conspiracy to violate such section 1348; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each violation in the case of a person other than an individual.

(2) NO EFFECT ON OTHER REMEDIES.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) EXCEPTION.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) DETERMINATION OF PENALTY AMOUNT.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.''.

SEC. 3316. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

Section 1954 of title 18, United State Code, is amended to read as follows:

''§ 1954. Bribery and graft in connection with employee benefit plans

''(a) DEFINITIONS.—In this section—

''(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

''(3) the term 'applicable person' means a person who is—

''(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

''(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

''(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

''(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

''(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

''(b) BRIBERY AND GRAFT.—Whoever—

''(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

''(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

''(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this subsection;

shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) EXCEPTIONS.—Nothing in this section may be construed to apply to any—

''(1) payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

''(2) payment to or acceptance in good faith by any employee benefit plan sponsor, or person acting on the sponsor's behalf, of any thing of value relating to the sponsor's decision or action to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate title I of the Employee Retirement Income Security Act of 1974, or any regulation or order promulgated thereunder, or any other provision of law governing the plan.''.

PART 2—PREVENTING TELEMARKETING FRAUD

SEC. 3321. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 3322(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on the number of complaints of telemarketing fraud against particular companies and any record of convictions for telemarketing fraud by particular companies for which a specific request has been made; and

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) CENTRAL LOCATION.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

(3) COMMENCEMENT.—The Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) CREATION OF FRAUD CONVICTION DATABASE.—

(1) REQUIREMENT.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law. The database shall include a description of the type and method of the fraud scheme for which each corporation or company covered by the database was convicted.

(2) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such

sums as may be necessary to carry out this section.

SEC. 3322. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking ''telephone calls'' and inserting ''wire communications utilizing a telephone service''.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

''§ 2328. Blocking or termination of telephone service

''(a) IN GENERAL.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the Attorney General's jurisdiction, that any wire communications facility furnished by such common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

''(b) PROHIBITION ON DAMAGES.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

''(c) RELIEF.—

''(1) IN GENERAL.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

''(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

''(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

''(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (a) to which such action relates.

''(d) DEFINITIONS.—In this section:

''(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

''(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

''(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

''(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

''(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

''(2) WIRE COMMUNICATION.—The term 'wire communication' has the meaning given that term in section 2510(1) of this title.

''(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.''.

(2) CONFORMING AMENDMENT.—The analysis for that chapter is amended by adding at the end the following:

''2328. Blocking or termination of telephone service.''.

PART 3—PREVENTING HEALTH CARE FRAUD

SEC. 3331. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking '', or'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by inserting after subparagraph (C) the following:

''(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);''; and

(2) in paragraph (2), by inserting ''a violation of paragraph (1)(D) or'' before ''a banking''.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

''(g) CIVIL ACTIONS.—

''(1) IN GENERAL.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

''(2) EXISTENCE OF VIOLATION.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

''(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

''(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

''(B) the Federal Rules of Civil Procedure.

''(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

''(h) INJUNCTIVE RELIEF.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.''.

(2) CONFORMING AMENDMENT.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting ''AND CIVIL'' after ''CRIMINAL''.

SEC. 3332. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting '', or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))),'' after ''Federal health care offense,''; and

(2) by adding at the end the following:

''(f) PRIVACY PROTECTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

''(2) EXCEPTIONS.—A record described in paragraph (1) may be disclosed—

''(A) to an attorney for the government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

''(B) to such government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist an attorney for the government in the performance of the official duty of that attorney to enforce Federal criminal law;

''(C) as directed by a court preliminarily to or in connection with a judicial proceeding; and

''(D) as permitted by a court—

''(i) at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

''(E) at the request of an attorney for the government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

''(3) MANNER OF COURT ORDERED DISCLOSURES.—If a court orders the disclosure of any record described in paragraph (1), the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct and shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record, unless disclosure is required by the nature of the proceedings, in which event the attorney for the government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

''(4) DESTRUCTION OF RECORDS.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic) shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

''(5) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

''(g) PERSONALLY IDENTIFIABLE HEALTH INFORMATION DEFINED.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

''(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

''(2) either—

''(A) identifies an individual; or

''(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.''.

SEC. 3333. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking ''(other than the health insurance program under chapter 89 of title 5, United States Code)''.

SEC. 3334. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) GRAND JURY DISCLOSURE.—Subject to section 3486(f), upon ex parte motion of an attorney for the government showing that such disclosure would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).''.

SEC. 3335. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting '', except to the Deputy Attorney General or to an Assistant Attorney General'' before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: ''Disclosure of information to a person who brings a civil action under section 3730, or such person's counsel, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.''.

PART 4—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 3341. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking ''in the case of property referred to in subsection (a)(1)(C)'' and inserting ''in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency'';

(2) by striking paragraph (6) and inserting the following:

''(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or''; and

(3) in paragraph (7), by striking ''in the case of property referred to in subsection (a)(1)(D)'' and inserting ''in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for an financial institution''.

SEC. 3342. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

''(r) VICTIM RESTITUTION.—

''(1) SATISFACTION OF ORDER OF RESTITUTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

''(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

''(2) RESTORATION OF FORFEITED PROPERTY.—

''(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

''(B) DISTRIBUTION OF PROPERTY.—On motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

''(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

''(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

''(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.''.

SEC. 3343. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking ''or'' at the end;

(B) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(19) the commencement or continuation of an action under section 3729 of title 31.''.

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.''.

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. False claims

''No transfer on account of a debt owed to the United States for violating 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. False claims.''.

SEC. 3344. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

''(9) CRIMINAL FORFEITURE.—

''(A) IN GENERAL.—The court, in imposing sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

''(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, the term 'retirement offense' means a violation of any of the following provisions of law, if the violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code):

''(i) Section 664, 1001, 1027, 1341, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code.

''(ii) Sections 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).''.

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(G) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of a violation of, a criminal conspiracy to violated or solicitation to commit a crime of violence involving a retirement offense (as defined in section 982(a)(9)(B)).''.

Subtitle D—Violent Crime Reduction Trust Fund

SEC. 3401. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by striking paragraphs (1) through (5) and inserting the following:

''(1) for fiscal year 2002, $6,169,000,000;

''(2) for fiscal year 2003, $6,316,000,000;

''(3) for fiscal year 2004, $6,458,000,000; and

''(4) for fiscal year 2005, $6,616,000,000.''.

(b) DISCRETIONARY LIMITS.—Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

''SEC. 310002. DISCRETIONARY LIMITS.

''For the purposes of allocations made for the discretionary category under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term 'discretionary spending limit' means—

''(1) with respect to fiscal year 2002—

''(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

''(B) for the violent crime reduction category, $6,169,000,000 in new budget authority and $6,020,000,000 in outlays;

''(2) with respect to fiscal year 2003—

''(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

''(B) for the violent crime reduction category, $6,316,000,000 in new budget authority and $6,161,000,000 in outlays;

''(3) with respect to fiscal year 2004—

''(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

''(B) for the violent crime reduction category, $6,459,000,000 in new budget authority and $6,303,000,000 in outlays; and

''(4) with respect to fiscal year 2005—

''(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

''(B) for the violent crime reduction category, $6,616,000 in new budget authority and $6,452,000,000 in outlays;

as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974.''.

TITLE IV—BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A—Drug Courts, Drug Treatment, and Alternative Sentencing

PART 1—EXPANSION OF DRUG COURTS

SEC. 4111. REAUTHORIZATION OF DRUG COURTS PROGRAM.

(a) REPEAL.—Section 114(b)(1)(A) of title I of Public Law 104–134 is repealed.

(b) REAUTHORIZATION.—Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $400,000,000 for fiscal year 2002; and

''(H) $400,000,000 for fiscal year 2003.''.

SEC. 4112. JUVENILE DRUG COURTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part BB the following:

''PART Z—JUVENILE DRUG COURTS

''SEC. 2976. GRANT AUTHORITY.

''(a) APPROPRIATE DRUG COURT PROGRAMS.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

''(1) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

''(2) integrate administration of other sanctions and services, including—

''(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

''(B) substance abuse treatment for each participant;

''(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

''(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support service for each participant who requires such services;

''(E) payment by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; or

''(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

''(b) CONTINUED AVAILABILITY OF GRANT FUNDS.—Amounts made available under this part shall remain available until expended.

''SEC. 2977. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

''The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

''SEC. 2978. DEFINITION.

''In this part, the term 'violent offender' means an individual charged with an offense during the course of which—

''(1) the individual carried, possessed, or used a firearm or dangerous weapon;

''(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

''(3) the individual used force against the person of another.

''SEC. 2979. ADMINISTRATION.

''(a) REGULATORY AUTHORITY.—The Attorney General shall issue any regulations and guidelines necessary to carry out this part.

''(b) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

''(1) include a long term strategy and detailed implementation plan;

''(2) explain the inability of the applicant to fund the program adequately without Federal assistance;

''(3) certify that the Federal support provided will be used to supplement, and not supplant, State, tribal, or local sources of funding that would otherwise be available;

''(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

''(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

''(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

''(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

''(8) describe the methodology that will be used in evaluating the program.

''SEC. 2980. APPLICATIONS.

''To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

''SEC. 2981. FEDERAL SHARE.

''(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2605 for the fiscal year for which the program receives assistance under this part.

''(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

''(c) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

''SEC. 2982. DISTRIBUTION OF FUNDS.

''(a) GEOGRAPHICAL DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

''(b) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

''SEC. 2983. REPORT.

''A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following receipt of a grant under this part, a report regarding the effectiveness of programs established pursuant to this part.

''SEC. 2984. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

''(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

''(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

''(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

''SEC. 2985. UNAWARDED FUNDS.

''The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

''SEC. 2986. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

''(1) such sums as may be necessary for each of fiscal years 2002 and 2003;

''(2) $50,000,000 for fiscal year 2004; and

''(3) $50,000,000 for fiscal year 2005.''.

PART 2—ZERO TOLERANCE DRUG TESTING

SEC. 4121. GRANT AUTHORITY.

The Attorney General may make grants to States and units of local government, State courts, local courts, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that support—

(1) developing and/or implementing comprehensive drug testing policies and practices with regard to criminal justice populations; and

(2) establishing appropriate interventions to illegal drug use for offender populations. Applicants may choose to submit joint proposals with other eligible criminal justice/court agencies for systemic drug testing and intervention programs; in this case, one organization must be designated as the primary applicant.

SEC. 4122. ADMINISTRATION.

(a) CONSULTATION/COORDINATION.—In carrying out section 4121, the Attorney General shall coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

(b) GUIDELINES.—The Attorney General may issue guidelines necessary to carry out section 4121.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under section 4121 shall—

(1) reflect a comprehensive approach that recognizes the importance of collaboration and a continuum of testing, treatment, and other interventions;

(2) include a long-term strategy and detailed implementation plan;

(3) address the applicant's capability to continue the proposed program following the conclusion of Federal support;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with affected agencies and key stakeholders throughout the criminal justice system and that there will be continued coordination throughout the implementation of the program; and

(6) describe the methodology that will be used in evaluating the program.

SEC. 4123. APPLICATIONS.

To request funds under section 4121, interested applicants shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require. Federal funding shall be awarded on a competitive basis based on criteria established by the Attorney General and specified in program guidelines.

SEC. 4124. FEDERAL SHARE.

The Federal share of a grant made under section 4121 may not exceed 75 percent of the total cost of the program described in the application submitted for the fiscal year for which the program receives assistance under section 4121, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-federal share of a grant.

SEC. 4125. GEOGRAPHIC DISTRIBUTION.

The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards under section 4121 is made, with rural and tribal jurisdiction representation.

SEC. 4126. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training in furtherance of the purposes of section 4121.

(b) EVALUATION.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for a rigorous evaluation of the programs that receive support under section 4121.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General or through grants, contracts, or cooperative agreements with other entities.

SEC. 4127. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out sections 4122 through 4126 $75,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.

SEC. 4128. PERMANENT SET-ASIDE FOR RESEARCH AND EVALUATION.

The Attorney General shall reserve not less than 1 percent and no more than 3 percent of the sums appropriated under section 4127 in each fiscal year for research and evaluation of this program.

SEC. 4129. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANT PROGRAMS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or section 20104, a State shall—

''(A) provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights of crime victims; and

''(B) no later than September 1, 2002, have a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive drug tests, consistent with guidelines issued by the Attorney General.

''(2) USE OF FUNDS.—Funds provided under section 20103 or section 20104 of this subtitle may be applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, consistent with guidelines issued by the Attorney General. Further, such funds may be used by the States to pay the costs of providing to the Attorney General a baseline study on their prison drug abuse problem. Such studies shall be consistent with guidelines issued by the Attorney General.

''(3) SYSTEM OF SANCTIONS AND PENALTIES.—Beginning in fiscal year 2002, and thereafter, States receiving funds pursuant to section 20103 or section 20104 of this subtitle shall have a system of sanctions and penalties that address drug trafficking within and into correctional facilities under their jurisdiction. Such systems shall be in accordance with guidelines issued by the Attorney General. Beginning in fiscal year 2002, and each year thereafter, any State that the Attorney General determines not to be in compliance with the provisions of this paragraph shall have the funds it would have otherwise been eligible to receive under section 20103 or section 20104 reduced by 10 percent for each fiscal year for which the Attorney General determines it does not comply. Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.''.

PART 3—DRUG TREATMENT

SEC. 4131. DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS ADMINISTERED BY STATE OR LOCAL PROSECUTORS.

(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

''PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS

''SEC. 2901. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

''(b) USE OF FUNDS.—A State or local prosecutor who receives a grant under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

''(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

''(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement.

''(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

''(c) FEDERAL SHARE.—The Federal share of a grant under this part shall not exceed 75 percent of the cost of the program.

''(d) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

''SEC. 2902. PROGRAM REQUIREMENTS.

''A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

''(1) A State or local prosecutor shall administer the program.

''(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

''(3) Each eligible offender who participates in the program shall, as an alternative to incarceration, be sentenced to or placed with a long term, drug free residential substance abuse treatment provider that is licensed under State or local law.

''(4) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

''(5) Each residential substance abuse provider treating an offender under the program shall—

''(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and to the appropriate court in which the defendant was convicted; and

''(B) notify that prosecutor and that court if that offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program.

''(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor carrying out the program, the duties of which shall include verifying an offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an offender who has absconded from the facility of a residential substance abuse treatment provider or otherwise violated the terms and conditions of the program, and returning such offender to court for sentence on the underlying crime.

''SEC. 2903. APPLICATIONS.

''(a) IN GENERAL.—To request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

''(b) CERTIFICATIONS.—Each such application shall contain the certification of the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

''SEC. 2904. GEOGRAPHIC DISTRIBUTION.

''The Attorney General shall ensure that, to the extent practicable, the distribution of

grant awards is equitable and includes State or local prosecutors—

''(1) in each State; and

''(2) in rural, suburban, and urban jurisdictions.

''SEC. 2905. REPORTS AND EVALUATIONS.

''For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a report regarding the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and containing such information as the Attorney General may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

''SEC. 2906. DEFINITIONS.

''In this part:

''(1) ELIGIBLE OFFENDER.—The term 'eligible offender' means an individual who—

''(A) has been convicted of, or pled guilty to, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

''(B) has never been convicted of, or pled guilty to, or admitted guilt with respect to, and is not presently charged with, a felony crime of violence or a major drug offense or a crime that is considered a violent felony under State or local law; and

''(C) has been found by a professional substance abuse screener to be in need of substance abuse treatment because that offender has a history of substance abuse that is a significant contributing factor to that offender's criminal conduct.

''(2) FELONY CRIME OF VIOLENCE.—The term 'felony crime of violence' has the meaning given such term in section 924(c)(3) of title 18, United States Code.

''(3) MAJOR DRUG OFFENSE.—The term 'major drug offense' has the meaning given such term in section 36(a) of title 18, United States Code.

''(4) STATE OR LOCAL PROSECUTOR.—The term 'State or local prosecutor' means any district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

''(24) There are authorized to be appropriated to carry out part CC—

''(A) $75,000,000 for fiscal year 2002;

''(B) $85,000,000 for fiscal year 2003;

''(C) $95,000,000 for fiscal year 2004;

''(D) $105,000,000 for fiscal year 2005; and

''(E) $125,000,000 for fiscal year 2006.''.

SEC. 4132. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.

Section 3621(e)(4) of title 18, United States Code, is amended by striking subparagraph (E) and inserting the following:

''(E) $31,000,000 for fiscal year 2002; and

''(F) $38,000,000 for fiscal year 2003.''.

SEC. 4133. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS REAUTHORIZATION

(a) REAUTHORIZATION.—Paragraph (17) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(17)) is amended to read as follows:

''(17) There are authorized to be appropriated to carry out part S $100,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2007.''.

(b) USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.—Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

''(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.''.

SEC. 4134. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

''SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

''(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

''(b) AVAILABILITY OF SERVICES FOR EACH PARTICIPANT.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

''(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

''(2) the services will be made available to each person admitted to the program.

''(c) INDIVIDUALIZED PLAN OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that—

''(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile or young adult of the services; and

''(2) treatment services under the plan will include—

''(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

''(B) followup services to assist the juvenile or young adult in preventing a relapse into such abuse.

''(d) ELIGIBLE SUPPLEMENTAL SERVICES.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

''(1) HOSPITAL REFERRALS.—Referrals for necessary hospital services.

''(2) HIV AND AIDS COUNSELING.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

''(3) DOMESTIC VIOLENCE AND SEXUAL ABUSE COUNSELING.—Counseling on domestic violence and sexual abuse.

''(4) PREPARATION FOR REENTRY INTO SOCIETY.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the juvenile.

''(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—

''(1) CERTIFICATION BY RELEVANT STATE AGENCY.—With respect to the principal agency of a State or Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

''(A) the applicant has the capacity to carry out a program described in subsection (a);

''(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

''(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

''(2) STATUS AS MEDICAID PROVIDER.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

''(i) the applicant for the grant, cooperative agreement, or contract will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

''(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

''(B) SERVICES.—

''(i) IN GENERAL.—In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

''(ii) VOLUNTARY DONATIONS.—A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

''(C) MENTAL DISEASES.—

''(i) IN GENERAL.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

''(ii) DEFINITION OF INSTITUTION FOR MENTAL DISEASES.—In this subparagraph, the term 'institution for mental diseases' has the same meaning as in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

''(f) REQUIREMENTS FOR MATCHING FUNDS.—

''(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

''(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

''(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

''(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(g) OUTREACH.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

''(h) ACCESSIBILITY OF PROGRAM.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

''(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

''(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

''(1) will be made according to a schedule of charges that is made available to the public;

''(2) will be adjusted to reflect the economic condition of the juvenile involved; and

''(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

''(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

''(1) describing the utilization and costs of services provided under the award;

''(2) specifying the number of juveniles served, and the type and costs of services provided; and

''(3) providing such other information as the Director determines to be appropriate.

''(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

''(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

''(n) DURATION OF AWARD.—

''(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

''(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

''(A) annual approval by the Director of the payments; and

''(B) the availability of appropriations for the fiscal year at issue to make the payments.

''(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

''(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

''(p) REPORTS TO CONGRESS.—

''(1) INITIAL REPORT.—Not later than October 1, 2002, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

''(2) PERIODIC REPORTS.—

''(A) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

''(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

''(q) DEFINITIONS.—In this section:

''(1) AUTHORIZED SERVICES.—The term 'authorized services' means treatment services and supplemental services.

''(2) JUVENILE.—The term 'juvenile' means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

''(3) ELIGIBLE JUVENILE.—The term 'eligible juvenile' means a juvenile who has been admitted to a program operated pursuant to subsection (a).

''(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

''(5) TREATMENT SERVICES.—The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

''(6) SUPPLEMENTAL SERVICES.—The term 'supplemental services' means the services described in subsection (d).

''(r) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 2002 and 2003. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $300,000,000 in each of fiscal years 2004 and 2005.

''(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

''(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

''SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

''(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

''(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

''(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.''.

PART 4—FUNDING FOR DRUG-FREE COMMUNITY PROGRAMS

SEC. 4141. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

Title IV of the Elementary and Secondary Education Act (20 U.S.C. 7104) is amended to read as follows:

''TITLE IV—AUTHORIZATIONS

''SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for State grants under subpart 1 and national programs under subpart 2, $655,000,000 for fiscal years 2002 and 2003, and $955,000,000 for fiscal years 2004 through 2005, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

''(1) $300,000,000 for fiscal year 2004; and

''(2) $300,000,000 for fiscal year 2005.''.

SEC. 4142. SAY NO TO DRUGS COMMUNITY CENTERS.

(a) SHORT TITLE.—This section may be cited as the ''Say No to Drugs Community Centers Act of 2001''.

(b) DEFINITIONS.—In this section—

(1) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties.

(2) ELIGIBLE COMMUNITY.—The term ''eligible community'' means a community—

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime.

(3) ELIGIBLE RECIPIENT.—The term ''eligible recipient'' means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with subsection (e); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families.

(4) POVERTY LINE.—The term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(5) PUBLIC SCHOOL.—The term ''public school'' means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act (42 U.S.C. 1141(d)).

(c) GRANT REQUIREMENTS.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:

(1) Rigorous drug prevention education.

(2) Drug counseling and treatment.

(3) Academic tutoring and mentoring.

(4) Activities promoting interaction between youth and law enforcement officials.

(5) Vaccinations and other basic preventive health care.

(6) Sexual abstinence education.

(7) Other activities and instruction to reduce youth violence and substance abuse.

(d) LOCATION AND USE OF AMOUNTS.—An eligible recipient that receives a grant under this section—

(1) shall ensure that the stated program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility that is—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full day programs (to the extent available resources permit) or as part day programs, during the summer months;

(3) shall use not more than 5 percent of the amounts to pay for the administrative costs of the program;

(4) shall not use such amounts to provide sectarian worship or sectarian instruction; and

(5) may not use the amounts for the general operating costs of public schools.

(e) APPLICATIONS.—

(1) IN GENERAL.—Each application to become an eligible recipient shall be submitted to the Attorney General at such time, in such manner, and accompanied by such information, as the Attorney General may reasonably require.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain a comprehensive plan for the program that is designed to achieve identifiable goals for youth in the eligible community;

(C) describe in detail the drug education and drug prevention programs that will be implemented;

(D) specify measurable goals and outcomes for the program that will include—

(i) reducing the percentage of youth in the eligible community that enter the juvenile justice system or become addicted to drugs;

(ii) increasing the graduation rates, school attendance, and academic success of youth in the eligible community; and

(iii) improving the skills of program participants;

(E) contain an assurance that the applicant will use grant amounts received under this subtitle to provide youth in the eligible community with activities and services consistent with subsection (c);

(F) demonstrate the manner in which the applicant will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(G) include an estimate of the number of youth in the eligible community expected to be served under the program;

(H) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(I) contain an assurance that the applicant will comply with any research effort authorized under Federal law, and any investigation by the Attorney General;

(J) contain an assurance that the applicant will prepare and submit to the Attorney General an annual report regarding any program conducted under this subtitle;

(K) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(L) contain an assurance that the applicant will maintain separate accounting records for the program for which the grant is sought.

(3) PRIORITY.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.

(f) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Attorney General shall, subject to the availability of appropriations, provide to each eligible recipient the Federal share of the costs of developing and carrying out programs described in this section.

(2) FEDERAL SHARE.—The Federal share of the cost of a program under this subtitle shall be not more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of a program under this subtitle may be in cash or in kind, fairly evaluated, including plant, equipment, and services. Federal funds made available for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of the costs of a program under this subtitle shall be provided from private or nonprofit sources.

(g) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.—

(i) IN GENERAL.—In any fiscal year in which the total amount made available to carry out this subtitle is equal to or greater than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(C) REALLOCATION.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle. In awarding such grants, the Attorney General shall consider the need to maintain geographic diversity among eligible recipients.

(D) AVAILABILITY OF AMOUNTS.—Amounts made available under this paragraph shall remain available until expended.

(2) OTHER FISCAL YEARS.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(3) ADMINISTRATIVE COSTS.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this subtitle in any fiscal year for administrative costs, including training and technical assistance.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) for fiscal year 2002, $125,000,000; and

(2) for fiscal year 2003, $125,000,000.

SEC. 4143. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended to read as follows:

''SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

SEC. 4144. DRUG EDUCATION AND PREVENTION PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended to read as follows:

''SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

Subtitle B—Youth Crime Prevention and Juvenile Courts

PART 1—GRANTS TO YOUTH ORGANIZATIONS

SEC. 4211. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national or statewide nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4–H Clubs, YMCA Big Brothers and Big Sisters, and Kids 'N Kops programs, for the purpose of—

(1) providing constructive activities to youth during after school hours, weekends, and school vacations;

(2) providing supervised activities in safe environments to youth in crime prone areas;

(3) providing antidrug education to prevent drug abuse among youth;

(4) supporting police officer training and salaries and educational materials to expand D.A.R.E. America's middle school campaign; or

(5) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 4212. GRANTS TO NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national or statewide community-based organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and

(F) any additional statistical or financial information that the Attorney General may reasonably require.

(b) GRANT AWARDS.—In awarding grants under this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in providing youth activities on a national or statewide basis; and

(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

SEC. 4213. GRANTS TO STATES.

(a) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government and community-based organizations for the purposes set forth in section 4211.

(2) GRANTS.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(3) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults; and

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs.

(b) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in the community to be served;

(3) the level of juvenile crime, violence, and drug use in the community;

(4) the extent to which structured extracurricular activities for youth are otherwise unavailable in the community;

(5) the need in the community for secure environments for youth to avoid criminal victimization and exposure to crime and illegal drugs;

(6) to the extent practicable, achievement of an equitable geographic distribution of the grant awards; and

(7) whether the applicant has an established record of providing extracurricular activities that are generally not otherwise available to youth in the community.

(c) ALLOCATION.—

(1) STATE ALLOCATIONS.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(3) REMAINING AMOUNTS.—Of the amount remaining after the allocations under paragraphs (1) and (2), the Attorney General shall allocate to each State an amount that bears the same ratio to the total amount of remaining funds as the population of the State bears to the total population of all States.

SEC. 4214. ALLOCATION; GRANT LIMITATION.

(a) ALLOCATION.—Of amounts made available to carry out this part—

(1) 20 percent shall be for grants to national or statewide organizations under section 4212; and

(2) 80 percent shall be for grants to States under section 4213.

(b) GRANT LIMITATION.—Not more than 3 percent of the funds made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 4215. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 2002 and October 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;

(2) the number of youth participating;

(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(4) any other information that the Attorney General requires for evaluating the effectiveness of the program.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 2003, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this part, and an evaluation of programs established by grant recipients under this part.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this part, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;

(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large;

(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large;

(4) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large; and

(5) the truancy rates of youth participating in the program compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this part shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this part.

SEC. 4216. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of fiscal years 2002 and 2003; and

(2) $125,000,000 for each of fiscal years 2004 and 2005.

(b) CONTINUED AVAILABILITY.—Amounts made available under this part shall remain available until expended.

SEC. 4217. GRANTS TO PUBLIC AND PRIVATE AGENCIES.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking the first part designated as part I;

(2) by redesignating the second part designated as part I as part M; and

(3) by inserting after part H the following:

"PART I—AFTER SCHOOL CRIME PREVENTION

"SEC. 291. GRANTS TO PUBLIC AND PRIVATE AGENCIES FOR EFFECTIVE AFTER SCHOOL CRIME PREVENTION PROGRAMS.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make grants in accordance with this section to public and private agencies to fund effective after school juvenile crime prevention programs.

''(b) MATCHING REQUIREMENT.—The Administrator may not make a grant to a public or private agency under this section unless that agency agrees that, with respect to the costs to be incurred by the agency in carrying out the program for which the grant is to be awarded, the agency will make available non-Federal contributions in an amount that is not less than a specific percentage of Federal funds provided under the grant, as determined by the Administrator.

''(c) PRIORITY.—In making grants under this section, the Administrator shall give priority to funding programs that—

''(1) are targeted to high crime neighborhoods or at-risk juveniles;

''(2) operate during the period immediately following normal school hours;

''(3) provide educational or recreational activities designed to encourage law-abiding conduct, reduce the incidence of criminal activity, and teach juveniles alternatives to crime; and

''(4) coordinate with State or local juvenile crime control and juvenile offender accountability programs.

''(d) FUNDING.—There are authorized to be appropriated for grants under this section $250,000,000 for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

PART 2—REAUTHORIZATION OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

SEC. 4221. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

Section 506 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5785) is amended to read as follows:

''SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

SEC. 4222. RESEARCH, EVALUATION, AND TRAINING.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is amended by adding at the end the following:

''SEC. 507. RESEARCH, EVALUATION, AND TRAINING.

''Of the amounts made available by appropriations pursuant to section 506—

''(1) 2 percent shall be used by the Administrator for providing training and technical assistance under this title; and

''(2) 10 percent shall be used by the Administrator for research, statistics, and evaluation activities carried out in conjunction with the grant programs under this title.''.

PART 3—JUMP AHEAD

SEC. 4231. SHORT TITLE.

This part may be cited as the ''JUMP Ahead Act of 2001''.

SEC. 4232. FINDINGS.

Congress finds that—

(1) millions of young people in America live in areas in which drug use and violent and property crimes are pervasive;

(2) unfortunately, many of these same young people come from single parent homes, or from environments in which there is no responsible, caring adult supervision;

(3) all children and adolescents need caring adults in their lives, and mentoring is an effective way to fill this special need for at-risk children;

(4) the special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future;

(5) through a mentoring relationship, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, artistic, or athletic growth;

(6) rigorous independent studies have confirmed that effective mentoring programs can significantly reduce and prevent the use of alcohol and drugs by young people, improve school attendance and performance, improve peer and family and peer relationships, and reduce violent behavior;

(7) since the inception of the Federal JUMP program, dozens of innovative, effective mentoring programs have received funding grants;

(8) unfortunately, despite the recent growth in public and private mentoring initiatives, it is reported that between 5,000,000 and 15,000,000 additional children in the United States could benefit from being matched with a mentor; and

(9) although great strides have been made in reaching at-risk youth since the inception of the JUMP program, millions of vulnerable American children are not being reached, and without an increased commitment to connect these young people to responsible adult role models, our country risks losing an entire generation to drugs, crime, and unproductive lives.

SEC. 4233. JUVENILE MENTORING GRANTS.

(a) IN GENERAL.—Section 288B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Administrator shall'';

(2) by striking paragraph (2) and inserting the following:

''(2) are intended to achieve 1 or more of the following goals:

''(A) Discourage at-risk youth from—

''(i) using illegal drugs and alcohol;

''(ii) engaging in violence;

''(iii) using guns and other dangerous weapons;

''(iv) engaging in other criminal and antisocial behavior; and

''(v) becoming involved in gangs.

''(B) Promote personal and social responsibility among at-risk youth.

''(C) Increase at-risk youth's participation in, and enhance the ability of those youth to benefit from, elementary and secondary education.

''(D) Encourage at-risk youth participation in community service and community activities.

''(E) Provide general guidance to at-risk youth.''; and

(3) by adding at the end the following:

''(b) AMOUNT AND DURATION.—Each grant under this part shall be awarded in an amount not to exceed a total of $200,000 over a period of not more than 3 years.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for each of fiscal years 2002, 2003, 2004, and 2005 to carry out this part.''.

SEC. 4234. IMPLEMENTATION AND EVALUATION GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice may make grants to national organizations or agencies serving youth, in order to enable those organizations or agencies—

(1) to conduct a multisite demonstration project, involving between 5 and 10 project sites, that—

(A) provides an opportunity to compare various mentoring models for the purpose of evaluating the effectiveness and efficiency of those models;

(B) allows for innovative programs designed under the oversight of a national organization or agency serving youth, which programs may include—

(i) technical assistance;

(ii) training; and

(iii) research and evaluation; and

(C) disseminates the results of such demonstration project to allow for the determination of the best practices for various mentoring programs;

(2) to develop and evaluate screening standards for mentoring programs; and

(3) to develop and evaluate volunteer recruitment techniques and activities for mentoring programs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of fiscal years 2002, 2003, 2004, and 2005 to carry out this section.

SEC. 4235. EVALUATIONS; REPORTS.

(a) EVALUATIONS.—

(1) IN GENERAL.—The Attorney General shall enter into a contract with an evaluating organization that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title).

(2) CRITERIA.—The Attorney General shall establish a minimum criteria for evaluating the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title), which shall provide for a description of the implementation of the program or activity, and the effect of the program or activity on participants, schools, communities, and youth served by the program or activity.

(3) MENTORING PROGRAM OF THE YEAR.—The Attorney General shall, on an annual basis, based on the most recent evaluation under this subsection and such other criteria as the Attorney General shall establish by regulation—

(A) designate 1 program or activity assisted under this Act as the ''Juvenile Mentoring Program of the Year''; and

(B) publish notice of such designation in the Federal Register.

(b) REPORTS.—

(1) GRANT RECIPIENTS.—Each entity receiving a grant under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title) shall submit to the evaluating organization entering into the contract under subsection (a)(1), an annual report regarding any program or activity assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title). Each report under this paragraph shall be submitted at such time, in such a manner, and shall be accompanied by such information, as the evaluating organization may reasonably require.

(2) COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report evaluating the effectiveness of grants awarded under this Act and under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title), in—

(A) reducing juvenile delinquency and gang participation;

(B) reducing the school dropout rate; and

(C) improving academic performance of juveniles.

PART 4—TRUANCY PREVENTION

SEC. 4241. SHORT TITLE.

This part may be cited as the ''Truancy Prevention and Juvenile Crime Reduction Act of 2001''.

SEC. 4242. FINDINGS.

Congress makes the following findings:

(1) Truancy is often the first sign of trouble—the first indicator that a young person is giving up and losing his or her way.

(2) Many students who become truant eventually drop out of school, and high school drop outs are two and a half times more likely to be on welfare than high school graduates, twice as likely to be unemployed, or if employed, earn lower salaries.

(3) Truancy is the top-ranking characteristic of criminals—more common than such factors as coming from single-parent families and being abused as children.

(4) High rates of truancy are linked to high daytime burglary rates and high vandalism.

(5) As much as 44 percent of violent juvenile crime takes place during school hours.

(6) As many as 75 percent of children ages 13 to 16 who are arrested and prosecuted for crimes are truants.

(7) Some cities report as many as 70 percent of daily student absences are unexcused, and the total number of absences in a single city can reach 4,000 per day.

(8) Society pays a significant social and economic cost due to truancy: only 34 percent of inmates have completed high school education; 17 percent of youth under age 18 entering adult prisons have not completed grade school (8th grade or less), 25 percent completed 10th grade, and 2 percent completed high school.

(9) Truants and later high school drop outs cost the Nation $240,000,000,000 in lost earnings and foregone taxes over their lifetimes, and the cost of crime control is staggering.

(10) In many instances, parents are unaware a child is truant.

(11) Effective truancy prevention, early intervention, and accountability programs can improve school attendance and reduce daytime crime rates.

(12) There is a lack of targeted funding for effective truancy prevention programs in current law.

SEC. 4243. GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTNERSHIP.—The term ''eligible partnership'' means a partnership between 1 or more qualified units of local government and 1 or more local educational agencies.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) QUALIFIED UNIT OF LOCAL GOVERNMENT.—The term ''qualified unit of local government'' means a unit of local government that has in effect, as of the date on which the eligible partnership submits an application for a grant under this section, a statute or regulation that meets the requirements of section 223(a)(14) of the Juvenile Justice and Delinquency and Prevention Act of 1974 (42 U.S.C. 5633(a)(14)).

(4) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or any Indian tribe.

(b) GRANT AUTHORITY.—The Attorney General, in consultation with the Secretary of Education, shall make grants in accordance with this section on a competitive basis to eligible partnerships to reduce truancy and the incidence of daytime juvenile crime.

(c) MAXIMUM AMOUNT; ALLOCATION; RENEWAL.—

(1) MAXIMUM AMOUNT.—The total amount awarded to an eligible partnership under this section in any fiscal year shall not exceed $100,000.

(2) ALLOCATION.—Not less than 25 percent of each grant awarded to an eligible partnership under this section shall be allocated for use by the local educational agency or agencies participating in the partnership.

(3) RENEWAL.—A grant awarded under this section for a fiscal year may be renewed for an additional period of not more than 2 fiscal years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Grant amounts made available under this section may be used by an eligible partnership to comprehensively address truancy through the use of—

(A) parental involvement in prevention activities, including meaningful incentives for parental responsibility;

(B) sanctions, including community service, or drivers' license suspension for students who are habitually truant;

(C) parental accountability, including fines, teacher-aid duty, or community service;

(D) in-school truancy prevention programs, including alternative education and in-school suspension;

(E) involvement of the local law enforcement, social services, judicial, business, and religious communities, and nonprofit organizations;

(F) technology, including automated telephone notice to parents and computerized attendance system; or

(G) elimination of 40-day count and other unintended incentives to allow students to be truant after a certain time of school year.

(2) MODEL PROGRAMS.—In carrying out this section, the Attorney General may give priority to funding the following programs and programs that attempt to replicate one or more of the following model programs:

(A) The Truancy Intervention Project of the Fulton County, Georgia, Juvenile Court.

(B) The TABS (Truancy Abatement and Burglary Suppression) program of Milwaukee, Wisconsin.

(C) The Roswell Daytime Curfew Program of Roswell, New Mexico.

(D) The Stop, Cite and Return Program of Rohnert Park, California.

(E) The Stay in School Program of New Haven, Connecticut.

(F) The Atlantic County Project Helping Hand of Atlantic County, New Jersey.

(G) The THRIVE (Truancy Habits Reduced Increasing Valuable Education) initiative of Oklahoma City, Oklahoma.

(H) The Norfolk, Virginia project using computer software and data collection.

(I) The Community Service Early Intervention Program of Marion, Ohio.

(J) The Truancy Reduction Program of Bakersfield, California.

(K) The Grade Court program of Farmington, New Mexico.

(L) Any other model program that the Attorney General determines to be appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2002, 2003, and 2004.

PART 5—JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION ACT

SEC. 4251. SHORT TITLE.

This part may be cited as the ''Juvenile Crime Control and Delinquency Prevention Act of 2001''.

SEC. 4252. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

''SEC. 101. FINDINGS.

''(a) Congress finds that the juvenile crime problem should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

''(1) quality prevention programs that—

''(A) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether juveniles have ever been the victims of family violence (including child abuse and neglect); and

''(B) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

''(2) programs that assist in holding juveniles accountable for their actions, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

''(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts.''.

SEC. 4253. PURPOSE.

Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title are—

''(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

''(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

''(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.''.

SEC. 4254. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by striking ''to help prevent juvenile delinquency'' and inserting ''designed to reduce known risk factors for juvenile delinquent behavior, provide activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior'',

(2) in paragraph (4), by inserting ''title I of'' before ''the Omnibus'' each place it appears,

(3) in paragraph (7), by striking ''the Trust Territory of the Pacific Islands,'',

(4) in paragraph (9), by striking ''justice'' and inserting ''crime control'',

(5) in paragraph (12)(B), by striking '', of any nonoffender,'',

(6) in paragraph (13)(B), by striking '', any nonoffender,'',

(7) in paragraph (14), by inserting ''drug trafficking,'' after ''assault,'',

(8) in paragraph (16)—

(A) in subparagraph (A), by adding ''and'' at the end, and

(B) by striking subparagraph (C),

(9) by striking paragraph (17),

(10) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking ''and'' at the end,

(11) in paragraph (23), by striking the period at the end and inserting a semicolon,

(12) by redesignating paragraphs (18), (19), (20), (21), (22), and (23) as paragraphs (17) through (22), respectively, and

(13) by adding at the end the following:

''(23) the term 'boot camp' means a residential facility (excluding a private residence) at which there are provided—

''(A) a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training.

''(B) regular, remedial, special, and vocational education; and

''(C) counseling and treatment for substance abuse and other health and mental health problems;

''(24) the term 'graduated sanctions' means an accountability-based, graduated series of sanctions (including incentives and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-

abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

''(25) the term 'violent crime' means—

''(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

''(B) aggravated assault committed with the use of a firearm;

''(26) the term 'co-located facilities' means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

''(27) the term 'related complex of buildings' means 2 or more buildings that share—

''(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

''(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.''.

SEC. 4255. NAME OF OFFICE.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part A, by striking the part heading and inserting the following:

''PART A—OFFICE OF JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION'';

(2) in section 201(a), by striking ''Justice and Delinquency Prevention'' and inserting ''Crime Control and Delinquency Prevention''; and

(3) in section 299A(c)(2) by striking ''Justice and Delinquency Prevention'' and inserting ''Crime Control and Delinquency Prevention''.

SEC. 4256. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (3), by striking ''and of the prospective'' and all that follows through ''administered'';

(B) by striking paragraph (5); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(3) in subsection (c), by striking ''and reports'' and all that follows through ''this part'', and inserting ''as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency'';

(4) by striking subsection (i); and

(5) by redesignating subsection (h) as subsection (f).

SEC. 4257. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''amount, up to $400,000,'' and inserting ''amount up to $400,000'';

(II) by inserting a comma after ''1992'' the first place it appears;

(III) by striking ''the Trust Territory of the Pacific Islands,''; and

(IV) by striking ''amount, up to $100,000,'' and inserting ''amount up to $100,000'';

(ii) in subparagraph (B)—

(I) by striking ''(other than part D)'';

(II) by striking ''or such greater amount, up to $600,000'' and all that follows through ''section 299(a) (1) and (3)'';

(III) by striking ''the Trust Territory of the Pacific Islands,'';

(IV) by striking ''amount, up to $100,000,'' and inserting ''amount up to $100,000''; and

(V) by inserting a comma after ''1992'';

(B) in paragraph (3) by striking ''allot'' and inserting ''allocate''; and

(2) in subsection (b) by striking ''the Trust Territory of the Pacific Islands,''.

SEC. 4258. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking ''challenge'' and all that follows through ''part E'', and inserting '', projects, and activities'';

(B) in paragraph (3)—

(i) by striking '', which—'' and inserting ''that—'';

(ii) in subparagraph (A)—

(I) by striking ''not less'' and all that follows through ''33'', and inserting ''the attorney general of the State or such other State official who has primary responsibility for overseeing the enforcement of State criminal laws, and'';

(II) by inserting '', in consultation with the attorney general of the State or such other State official who has primary responsibility for overseeing the enforcement of State criminal laws'' after ''State'';

(III) in clause (i), by striking ''or the administration of juvenile justice'' and inserting '', the administration of juvenile justice, or the reduction of juvenile delinquency'';

(IV) in clause (ii), by striking ''include—'' and all that follows through the semicolon at the end of subclause (VIII), and inserting the following:

''represent a multidisciplinary approach to addressing juvenile delinquency and may include—

''(I) individuals who represent units of general local government, law enforcement and juvenile justice agencies, public agencies concerned with the prevention and treatment of juvenile delinquency and with the adjudication of juveniles, representatives of juveniles, or nonprofit private organizations, particularly such organizations that serve juveniles; and

''(II) such other individuals as the chief executive officer considers to be appropriate; and'';

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

(iii) in subparagraph (C), by striking ''justice'' and inserting ''crime control'';

(iv) in subparagraph (D)—

(I) in clause (i), by inserting ''and'' at the end; and

(II) in clause (ii), by striking ''paragraphs'' and all that follows through ''part E'', and inserting ''paragraphs (11), (12), and (13)''; and

(v) in subparagraph (E), by striking ''title—'' and all that follows through ''(ii)'' and inserting ''title,'';

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking '', other than'' and inserting ''reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding'' after ''section 222''; and

(ii) in subparagraph (C), by striking ''paragraphs (12)(A), (13), and (14)'' and inserting ''paragraphs (11), (12), and (13)'';

(D) by striking paragraph (6);

(E) in paragraph (7), by inserting '', including in rural areas'' before the semicolon at the end;

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking ''for (i)'' and all that follows through ''relevant jurisdiction'', and inserting ''for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State'';

(II) by striking ''justice'' the second place it appears and inserting ''crime control''; and

(III) by striking ''of the jurisdiction; (ii)'' and all that follows through the semicolon at the end, and inserting ''of the State; and'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) contain—

''(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

''(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

''(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system;''; and

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

(G) by striking paragraph (9) and inserting the following:

''(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;'';

(H) in paragraph (10)—

(i) in subparagraph (A), by striking '', specifically'' and inserting ''including''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) programs that assist in holding juveniles accountable for their actions, including the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution for the damage caused by their delinquent behavior;'';

(iii) in subparagraph (C), by striking ''juvenile justice'' and inserting ''juvenile crime control'';

(iv) by striking subparagraph (D) and inserting the following:

''(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;'';

(v) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii); and

(II) by striking ''juveniles, provided'' and all that follows through ''provides; and'', and inserting the following:

''juveniles—

''(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

''(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and'';

(vi) by striking subparagraph (F) and inserting the following:

''(F) expanding the use of probation officers—

''(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

''(ii) to ensure that juveniles follow the terms of their probation;'';

(vii) by striking subparagraph (G) and inserting the following:

''(G) one-on-one mentoring programs that are designed to link at-risk juveniles and juvenile offenders, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working with community-based organizations and agencies) who are properly screened and trained;'';

(viii) in subparagraph (H) by striking ''handicapped youth'' and inserting ''juveniles with disabilities'';

(ix) by striking subparagraph (K) and inserting the following:

''(K) boot camps for juvenile offenders;'';

(x) by striking subparagraph (L) and inserting the following:

''(L) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;'';

(xi) by striking subparagraph (M) and inserting the following:

''(M) other activities (such as court-appointed advocates) that the State determines will hold juveniles accountable for their acts and decrease juvenile involvement in delinquent activities;'';

(xii) in subparagraph (O)—

(I) in striking ''cultural'' and inserting ''other''; and

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

(xiii) by adding at the end the following:

''(P) programs that utilize multidisciplinary interagency case management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit violent or serious delinquent acts; and

''(Q) programs designed to prevent and reduce hate crimes committed by juveniles.'';

(I) by striking paragraph (12) and inserting the following:

''(12) shall, in accordance with rules issued by the Administrator, provide that—

''(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

''(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

''(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

''(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles, as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

''(B) juveniles—

''(i) who are not charged with any offense; and

''(ii) who are—

''(I) aliens; or

''(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;'';

(J) by striking paragraph (13) and inserting the following:

''(13) provide that—

''(A) juveniles alleged to be or found to be delinquent, and juveniles within the purview of paragraph (11), will not be detained or confined in any institution in which they have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;

''(B) to the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles;

''(C) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in colocated facilities have been trained and certified to work with juveniles;

''(D) the term 'prohibited physical contact'—

''(i) means—

''(I) any physical contact between a juvenile and an adult inmate; and

''(II) proximity that provides an opportunity for physical contact between a juvenile and an adult inmate; and

''(ii) does not include—

''(I) communication that is accidental or incidental;

''(II) sounds or noises that cannot reasonably be considered to be speech; or

''(III) does not include supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental; and

''(E) the term 'sustained oral communication' means the imparting or interchange of speech by or between an adult inmate and a juvenile;''.

(K) by striking paragraph (14) and inserting the following:

''(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

''(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

''(i) for processing or release;

''(ii) while awaiting transfer to a juvenile facility; or

''(iii) in which period such juveniles make a court appearance;

''(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained or confined in a jail or lockup—

''(i) in which—

''(I) such juveniles do not have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E) of paragraph (13)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;

''(II) to the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles; and

''(III) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in co-located facilities have been trained and certified to work with juveniles; and

''(ii) that—

''(I) is located outside a metropolitan statistical area (as defined by the Director of the Office of Management and Budget) and has no existing acceptable alternative placement available; or

''(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

''(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;'';

(L) in paragraph (15)—

(i) by striking ''paragraph (12)(A), paragraph (13), and paragraph (14)'' and inserting ''paragraphs (11), (12), and (13)''; and

(ii) by striking ''paragraph (12)(A) and paragraph (13)'' and inserting ''paragraphs (11) and (12)'';

(M) in paragraph (16) by striking ''mentally, emotionally, or physically handicapping conditions'' and inserting ''disability'';

(N) by striking paragraph (19) and inserting the following:

''(19) provide assurances that—

''(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

''(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

''(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;'';

(O) by striking paragraph (23) and inserting the following:

''(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;'';

(P) by striking paragraph (24) and inserting the following:

''(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

''(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

''(B) not later than 24 hours after the juvenile is taken into custody and during which the juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

''(C) not later than 48 hours after the juvenile is taken into custody and during which the juvenile is so held—

''(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

''(ii) such court shall conduct a hearing to determine—

''(I) whether there is reasonable cause to believe that such juvenile violated such order; and

''(II) the appropriate placement of such juvenile pending disposition of the violation alleged;'';

(Q) in paragraph (25) by striking the period at the end and inserting a semicolon;

(R) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively; and

(S) by adding at the end the following:

''(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the state advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units.''; and

(2) by striking subsection (c) and inserting the following:

''(c) If a State fails to comply with any applicable requirement of paragraph (11), (12), (13), or (22) of subsection (a) in any fiscal year beginning after September 30, 1999, then the amount allocated to such State for the subsequent fiscal year shall be reduced by not to exceed 12.5 percent for each such paragraph with respect to which the failure occurs, unless the Administrator determines that the State—

''(1) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

''(2) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.''; and

(3) in subsection (d)—

(A) by striking ''allotment'' and inserting ''allocation''; and

(B) by striking ''subsection (a) (12)(A), (13), (14) and (23)'' each place it appears and inserting ''paragraphs (11), (12), (13), and (22) of subsection (a)''.

SEC. 4259. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part I, as added by section 4217 of this title, the following:

''PART J—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

''SEC. 292. AUTHORITY TO MAKE GRANTS.

''The Administrator may make grants to eligible States, from funds allocated under section 292A, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

''(1) projects that assist in holding juveniles accountable for their actions, including the use of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts;

''(2) projects that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

''(3) educational projects or supportive services for delinquent or other juveniles—

''(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

''(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

''(C) to assist in identifying learning difficulties (including learning disabilities);

''(D) to prevent unwarranted and arbitrary suspensions and expulsions;

''(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

''(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other disabled juveniles; or

''(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies;

''(4) projects which expand the use of probation officers—

''(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

''(B) to ensure that juveniles follow the terms of their probation;

''(5) one-on-one mentoring projects that are designed to link at-risk juveniles and juvenile offenders who did not commit serious crime, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working for community-based organizations and agencies) who are properly screened and trained;

''(6) community-based projects and services (including literacy and social service programs) which work with juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

''(7) projects designed to provide for the treatment of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

''(8) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

''(9) projects which provide for an initial intake screening of each juvenile taken into custody—

''(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

''(B) to provide appropriate interventions, including mental health services and substance abuse treatment, to prevent such juvenile from committing subsequent offenses;

''(10) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

''(11) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering services to juveniles;

''(12) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

''(13) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

''(14) family strengthening activities, such as mutual support groups for parents and their children;

''(15) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

''(16) programs that focus on the needs of young girls at-risk of delinquency or status offenses; and

''(17) other activities that are likely to prevent juvenile delinquency.

''SEC. 292A. ALLOCATION.

''Funds appropriated to carry out this part shall be allocated among eligible States as follows:

''(1) 0.75 percent shall be allocated to each State.

''(2) Of the total amount remaining after the allocation under paragraph (1), there shall be allocated to each State as follows:

''(A) 50 percent of such amount shall be allocated proportionately based on the population that is less than 18 years of age in the eligible States.

''(B) 50 percent of such amount shall be allocated proportionately based on the annual average number of arrests for serious crimes committed in the eligible States by juveniles during the then most recently completed period of 3 consecutive calendar years for which sufficient information is available to the Administrator.

''SEC. 292B. ELIGIBILITY OF STATES.

''(a) APPLICATION.—To be eligible to receive a grant under section 292, a State shall submit to the Administrator an application that contains the following:

''(1) An assurance that the State will use—

''(A) not more than 5 percent of such grant, in the aggregate, for—

''(i) the costs incurred by the State to carry out this part; and

''(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

''(B) the remainder of such grant to make grants under section 292C.

''(2) An assurance that, and a detailed description of how, such grant will support, and not supplant State and local efforts to prevent juvenile delinquency.

''(3) An assurance that such application was prepared after consultation with and participation by community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

''(4) An assurance that each eligible entity described in section 292C(a) that receives an initial grant under section 292 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 292 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

''(5) Such other information and assurances as the Administrator may reasonably require by rule.

''(b) APPROVAL OF APPLICATIONS.—

''(1) APPROVAL REQUIRED.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

''(2) LIMITATION.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

''(A)(i) the State submitted a plan under section 223 for such fiscal year; and

''(ii) such plan is approved by the Administrator for such fiscal year; or

''(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

''SEC. 292C. GRANTS FOR LOCAL PROJECTS.

''(a) SELECTION FROM AMONG APPLICATIONS.—

''(1) IN GENERAL.—Using a grant received under section 292, a State may make grants to eligible entities whose applications are received by the State in accordance with subsection (b) to carry out projects and activities described in section 292.

''(2) For purposes of making grants under this section, the State shall give special consideration to eligible entities that—

''(A) propose to carry out such projects in geographical areas in which there is—

''(i) a disproportionately high level of serious crime committed by juveniles; or

''(ii) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

''(B)(i) agreed to carry out such projects or activities that are multidisciplinary and involve 2 or more eligible entities; or

''(ii) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

''(C) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

''(b) RECEIPT OF APPLICATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), a unit of general local government shall submit to the State simultaneously all applications that are—

''(A) timely received by such unit from eligible entities; and

''(B) determined by such unit to be consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

''(2) DIRECT SUBMISSION TO STATE.—If an application submitted to such unit by an eligible entity satisfies the requirements specified in subparagraphs (A) and (B) of paragraph (1), such entity may submit such application directly to the State.

''SEC. 292D. ELIGIBILITY OF ENTITIES.

''(a) ELIGIBILITY.—Subject to subsections (b) and except as provided in subsection (c), to be eligible to receive a grant under section 292C, a community-based organization, local juvenile justice system officials (including prosecutors, police officers, judges, probation officers, parole officers, and public defenders), local education authority (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 and including a school within such authority), nonprofit private organization, unit of general local government, or social service provider, and or other entity with a demonstrated history of involvement in the prevention of juvenile delinquency, shall submit to a unit of general local government an application that contains the following:

''(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in 1 or more of paragraphs (1) through (14) of section 292 as specified in, such application.

''(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

''(3) A statement identifying the research (if any) such entity relied on in preparing such application.

''(b) REVIEW AND SUBMISSION OF APPLICATIONS.—Except as provided in subsection (c), an entity shall not be eligible to receive a grant under section 292C unless—

''(1) such entity submits to a unit of general local government an application that—

''(A) satisfies the requirements specified in subsection (a); and

''(B) describes a project or activity to be carried out in the geographical area under the jurisdiction of such unit; and

''(2) such unit determines that such project or activity is consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

''(c) LIMITATION.—If an entity that receives a grant under section 292C to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.''.

SEC. 4260. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part J, as added by section 4259 of this title, the following:

''PART K—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

''SEC. 293. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

''(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

''(A) plan and identify, after consultation with the Director of the National Institute of Justice, the purposes and goals of all agreements carried out with funds provided under this subsection; and

''(B) make agreements with the National Institute of Justice or, subject to the approval of the Assistant Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

''(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

''(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

''(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

''(iv) successful efforts to prevent recidivism;

''(v) the juvenile justice system;

''(vi) juvenile violence; and

''(vii) other purposes consistent with the purposes of this title and title I.

''(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

''(b) STATISTICAL ANALYSES.—The Administrator may—

''(1) plan and identify, after consultation with the Director of the Bureau of Justice Statistics, the purposes and goals of all agreements carried out with funds provided under this subsection; and

''(2) make agreements with the Bureau of Justice Statistics, or subject to the approval of the Assistant Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

''(c) COMPETITIVE SELECTION PROCESS.—The Administrator shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

''(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

''(e) INFORMATION DISSEMINATION.—The Administrator may—

''(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

''(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

''(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

''SEC. 293A. TRAINING AND TECHNICAL ASSISTANCE.

''(a) TRAINING.—The Administrator may—

''(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, to carry out the purposes specified in section 102; and

''(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, to carry out the purposes specified in section 102.

''(b) TECHNICAL ASSISTANCE.—The Administrator may—

''(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

''(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.''.

SEC. 4261. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part K, as added by section 4260 of this title, the following:

''PART L—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

''SEC. 294. GRANTS AND PROJECTS.

''(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

''(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

''SEC. 294A. GRANTS FOR TECHNICAL ASSISTANCE.

''The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

''SEC. 294B. ELIGIBILITY.

''To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonable require by rule.

''SEC. 294C. REPORTS.

''Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying the projects for which such grants are made.''.

SEC. 4262. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e); and

(2) by striking subsections (a) and (b), and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2002, 2003, and 2004.

''(2) ALLOCATION.—Of the amount made available for each fiscal year to carry out this title not more than 5 percent shall be available to carry out part A.

SEC. 4263. ADMINISTRATIVE AUTHORITY.

Section 299A(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended by striking ''as are consistent with the purpose of this Act'' and inserting ''only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance''.

SEC. 4264. USE OF FUNDS.

Section 299C of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674) is amended—

(1) in subsection (a)—

(A) by striking ''may be used for'';

(B) in paragraph (1), by inserting ''may be used for'' after ''(1)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) may not be used for the cost of construction of any short- or long-term facilities for adult or juvenile offenders, except not more than 15 percent of the funds received under this title by a State for a fiscal year may be used for the purpose of renovating or replacing juvenile facilities.'';

(2) by striking subsection (b); and

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

SEC. 4265. LIMITATION ON USE OF FUNDS.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as redesignated by section 4217 of this title, is amended by adding at the end the following:

''SEC. 299F. LIMITATION ON USE OF FUNDS.

''None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.''.

SEC. 4266. RULES OF CONSTRUCTION.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4265 of this title, is amended by adding at the end the following:

''SEC. 299G. RULES OF CONSTRUCTION.

''Nothing in this title or title I may be construed—

''(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

''(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.''.

SEC. 4267. LEASING SURPLUS FEDERAL PROPERTY.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4266 of this title, is amended by adding at the end the following:

''SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

''The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.''.

SEC. 4268. ISSUANCE OF RULES.

Part M of title II or the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4267 of this title, is amended by adding at the end the following:

''SEC. 299I. ISSUANCE OF RULES.

''The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.''.

SEC. 4269. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in section 202(b), by striking ''prescribed for GS–18 of the General Schedule by section 5332'' and inserting ''payable under section 5376'';

(2) in section 221(b)(2), by striking the last sentence; and

(3) in section 299D, by striking subsection (d).

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''.

(2) TITLE 18.—Section 4351(b) of title 18, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''.

(3) TITLE 39.—Subsections (a)(1) and (c) of section 3220 of title 39, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place it appears and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''.

(4) SOCIAL SECURITY ACT.—Section 463(f) of the Social Security Act (42 U.S.C. 663(f)) is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''.

(5) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Sections 801(a), 804, 805, and 813 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(a), 3782, 3785, 3786, 3789i) are each amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place it appears and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''.

(6) VICTIMS OF CHILD ABUSE ACT OF 1990.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 214(b)(1), by striking ''262, 293, and 296 of subpart II of title II'' and inserting ''299B and 299E'';

(B) in section 214A(c)(1), by striking ''262, 293, and 296 of subpart II of title II'' and inserting ''299B and 299E'';

(C) in sections 217 and 222, by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place it appears and inserting ''Office of Juvenile Crime Control and Delinquency Prevention''; and

(D) in section 223(c), by striking ''section 262, 293, and 296'' and inserting ''sections 262, 299B, and 299E''.

(7) MISSING CHILDREN'S ASSISTANCE.—The Missing Children's Assistance Act (42 U.S.C. 5771 et seq.) is amended—

(A) in section 403(2), by striking ''Justice and Delinquency Prevention'' and inserting ''Crime Control and Delinquency Prevention''; and

(B) in subsections (a)(5)(E) and (b)(1)(B) of section 404, by striking ''section 313'' and inserting ''section 331''.

(8) CRIME CONTROL ACT OF 1990.—The Crime Control Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 217(c)(1), by striking ''sections 262, 293, and 296 of subpart II of title II'' and inserting ''sections 299B and 299E''; and

(B) in section 223(c), by striking ''section 262, 293, and 296 of title II'' and inserting ''sections 299B and 299E''.

SEC. 4270. REFERENCES.

In any Federal law (excluding this Act and the Acts amended by this Act), Executive order, rule, regulation, order, delegation of authority, grant, contract, suit, or document—

(1) a reference to the Office of Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to the Office of Juvenile Crime Control and Delinquency Prevention, and

(2) a reference to the National Institute for Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to Office of Juvenile Crime Control and Delinquency Prevention.

PART 6—LOCAL GUN VIOLENCE PREVENTION PROGRAMS

SEC. 4271. COMPETITIVE GRANTS FOR CHILDREN'S FIREARM SAFETY EDUCATION.

(a) PURPOSES.—The purposes of this section are—

(1) to award grants to assist local educational agencies, in consultation with community groups and law enforcement agencies, to educate children about preventing gun violence; and

(2) to assist communities in developing partnerships between public schools, community organizations, law enforcement, and parents in educating children about preventing gun violence.

(b) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(3) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(c) ALLOCATION OF COMPETITIVE GRANTS.—

(1) GRANTS BY THE SECRETARY.—For any fiscal year in which the amount appropriated to carry out this section does not equal or exceed $50,000,000, the Secretary of Education may award competitive grants described under subsection (d).

(2) GRANTS BY THE STATES.—For any fiscal year in which the amount appropriated to carry out this section exceeds $50,000,000, the Secretary shall make allotments to State educational agencies pursuant to paragraph (3) to award competitive grants described in subsection (d).

(3) FORMULA.—Except as provided in paragraph (4), funds appropriated to carry out this section shall be allocated among the States as follows:

(A) MINORS.—75 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State.

(B) INCARCERATED MINORS.—25 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State that is incarcerated.

(4) MINIMUM ALLOTMENT.—Of the amounts appropriated to carry out this section, 0.50 percent shall be allocated to each State.

(d) AUTHORIZATION OF COMPETITIVE GRANTS.—The Secretary or the State educational agency, as the case may be, may award grants to eligible local educational agencies for the purposes of educating children about preventing gun violence, in accordance with the following:

(1) ASSURANCES.—

(A) AMOUNT OF FUNDS DISTRIBUTED.—The Secretary or the State educational agency, as the case may be, shall ensure that not less than 90 percent of the funds allotted under this section are distributed to local educational agencies.

(B) DISTRIBUTION.—In awarding the grants, the Secretary or the State educational agency, as the case may be, shall ensure, to the maximum extent practicable—

(i) an equitable geographic distribution of grant awards;

(ii) an equitable distribution of grant awards among programs that serve public elementary school students, public secondary school students, and a combination of both; and

(iii) that urban, rural and suburban areas are represented within the grants that are awarded.

(2) PRIORITY.—In awarding grants under this section, the Secretary or the State educational agency, as the case may be, shall give priority to a local educational agency that—

(A) coordinates with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(B) serves a population with a high incidence of students found in possession of a weapon on school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds; and

(C) forms a partnership that includes not less than 1 local educational agency working in consultation with not less than 1 public or private nonprofit agency or organization with experience in violence prevention or 1 local law enforcement agency.

(3) PEER REVIEW; CONSULTATION.—

(A) IN GENERAL.—

(i) PEER REVIEW BY PANEL.—Before grants are awarded, the Secretary shall submit grant applications to a peer review panel for evaluation.

(ii) COMPOSITION OF PANEL.—The panel shall be composed of not less than 1 representative from a local educational agency, State educational agency, a local law enforcement agency, and a public or private nonprofit organization with experience in violence prevention.

(B) CONSULTATION.—The Secretary shall submit grant applications to the Attorney General for consultation.

(e) ELIGIBLE GRANT RECIPIENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible grant recipient is a local educational agency that may work in partnership with 1 or more of the following:

(A) A public or private nonprofit agency or organization with experience in violence prevention.

(B) A local law enforcement agency.

(C) An institution of higher education.

(2) EXCEPTION.—A State educational agency may, with the approval of a local educational agency, submit an application on behalf of such local educational agency or a consortium of such agencies.

(f) LOCAL APPLICATIONS; REPORTS.—

(1) APPLICATIONS.—Each local educational agency that wishes to receive a grant under this section shall submit an application to the Secretary and the State educational agency that includes—

(A) a description of the proposed activities to be funded by the grant and how each activity will further the goal of educating children about preventing gun violence;

(B) how the program will be coordinated with other programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.); and

(C) the age and number of children that the programs will serve.

(2) REPORTS.—Each local educational agency that receives a grant under this section shall submit a report to the Secretary and to the State educational agency not later than 18 months after the grant is awarded and submit an additional report to the Secretary and to the State not later than 36 months after the grant is awarded. Each report shall include information regarding—

(A) the activities conducted to educate children about gun violence;

(B) how the program will continue to educate children about gun violence in the future; and

(C) how the grant is being coordinated with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(g) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grants authorized under subsection (d) shall be used for the following activities:

(A) Supporting existing programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(B) Educating children about the effects of gun violence.

(C) Educating children to identify dangerous situations in which guns are involved and how to avoid and prevent such situations.

(D) Educating children how to identify threats and other indications that their peers are in possession of a gun and may use a gun, and what steps they can take in such situations.

(E) Developing programs to give children access to adults to whom they can report, in a confidential manner, any problems relating to guns.

(2) PERMISSIBLE ACTIVITIES.—Grants authorized under subsection (d) may be used for the following:

(A) Encouraging schoolwide programs and partnerships that involve teachers, students, parents, administrators, other staff, and members of the community in reducing gun incidents in public elementary and secondary schools.

(B) Establishing programs that assist parents in helping educate their children about firearm safety and the prevention of gun violence.

(C) Providing ongoing professional development for public school staff and administrators to identify the causes and effects of gun violence and risk factors and student behavior that may result in gun violence, including training sessions to review and update school crisis response plans and school policies for preventing the presence of guns on school grounds and facilities.

(D) Providing technical assistance for school psychologists and counselors to provide timely counseling and evaluations, in accordance with State and local laws, of students who possess a weapon on school grounds.

(E) Improving security on public elementary and secondary school campuses to prevent outside persons from entering school grounds with firearms.

(F) Assisting public schools and communities in developing crisis response plans when firearms are found on school campuses and when gun-related incidents occur.

(h) STATE APPLICATIONS; ACTIVITIES AND REPORTS.—

(1) STATE APPLICATIONS.—

(A) CONTENTS.—Each State desiring to receive funds under this section shall, through its State educational agency, submit an application to the Secretary of Education at such time and in such manner as the Secretary shall require. Such application shall describe—

(i) the manner in which funds under this section for State activities and competitive grants will be used to fulfill the purposes of this section;

(ii) the manner in which the activities and projects supported by this section will be coordinated with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(iii) the manner in which States will ensure an equitable geographic distribution of grant awards; and

(iv) the criteria which will be used to determine the impact and effectiveness of the funds used pursuant to this section.

(B) FORM.—A State educational agency may submit an application to receive a grant under this section under paragraph (1) or as an amendment to the application the State educational agency submits under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(2) STATE ACTIVITIES.—Of appropriated amounts allocated to the States under subsection (c)(2), the State educational agency may reserve not more than 10 percent for activities to further the goals of this section, including—

(A) providing technical assistance to eligible grant recipients in the State;

(B) performing ongoing research into the causes of gun violence among children and methods to prevent gun violence among children; and

(C) providing ongoing professional development for public school staff and administrators to identify the causes and indications of gun violence.

(3) STATE REPORTS.—Each State receiving an allotment under this section shall submit a report to the Secretary and to the Committees on Health, Education, Labor, and Pensions and the Judiciary of the Senate and the Committees on Education and the Workforce and the Judiciary of the House of Representatives, not later than 12 months after receipt of the grant award and shall submit an additional report to those committees not later than 36 months after receipt of the grant award. Each report shall include information regarding—

(A) the progress of local educational agencies that received a grant award under this section in the State in educating children about firearms;

(B) the progress of State activities under paragraph (1) to advance the goals of this section; and

(C) how the State is coordinating funds allocated under this section with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(i) SUPPLEMENT NOT SUPPLANT.—A State or local educational agency shall use funds received under this section only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for reducing gun violence among children and educating children about firearms, and not to supplant such funds.

(j) DISPLACEMENT.—A local educational agency that receives a grant award under this section shall ensure that persons hired to carry out the activities under this section do not displace persons already employed.

(k) HOME SCHOOLS.—Nothing in this section shall be construed to affect home schools.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section $60,000,000 for each of fiscal years 2002, 2003, and 2004.

SEC. 4272. DISSEMINATION OF BEST PRACTICES VIA THE INTERNET.

(a) MODEL DISSEMINATION.—The Secretary of Education shall include on the Internet site of the Department of Education a description of programs that receive grants under section 4271.

(b) GRANT PROGRAM NOTIFICATION.—The Secretary shall publicize the competitive grant program through its Internet site, publications, and public service announcements.

SEC. 4273. GRANT PRIORITY FOR TRACING OF GUNS USED IN CRIMES BY JUVENILES.

Section 517 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3763) is amended by adding at the end the following:

''(c) PRIORITY.—In awarding discretionary grants under section 511 to public agencies to undertake law enforcement initiatives relating to gangs, or relating to juveniles who are involved or at risk of involvement in gangs, the Director shall give priority to a public agency that includes in its application a description of strategies or programs of that public agency (either in effect or proposed) that provide cooperation between Federal, State, and local law enforcement authorities, through the use of firearms and ballistics identification systems, to disrupt illegal sale or transfer of firearms to or between juveniles through tracing the sources of guns used in crime that were provided to juveniles.''.

21ST CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIM ASSISTANCE ACT—SECTION-BY-SECTION ANALYSIS

TITLE I: SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A. Support for Community Personnel

Sec. 1101. 21st century community policing initiative. Extends COPS program through FY2007. Authorizes funds for up to 50,000 police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys. Authorizes $350 million annually for new law enforcement technology designed to improve police communications and promote comprehensive crime analysis.

Subtitle B. Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

Sec. 1201. Expansion of protection of Federal officers and employees from murder due to their status. Clarifies that it is a crime to murder a Federal employee because of his or her status, as well as because of his or her performance of official duties, and that the same protection applies to a State or local government employee who is assisting a Federal official.

Sec. 1202. Assaulting, resisting, or impeding certain officers or employees. Increases the maximum penalties for simple assault (from 1 to 3 years) and other assaults (from 10 to 20 years) on Federal officials acting in performance of their official duties, or persons acting in concert with a Federal employee.

Sec. 1203. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member. Increases the maximum penalties for actual or attempted influencing, impeding, or retaliating against a Federal official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

Sec. 1204. Mailing threatening communications. Increases the maximum penalties from 5 to 10 years for threats of injury or kidnaping of any person mailed to a Federal judge, and from 3 to 6 years for extortionate threats to Federal judges.

Sec. 1205. Amendment of the sentencing guidelines for assaults and threats against Federal judges and certain other Federal officials and employees. Directs the United States Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for assaults and threats against Federal judges and other Federal officials and employees engaged in their official duties.

Sec. 1206. Killing persons aiding Federal investigations or State correctional officers. Provides that the killing of a person working with Federal officials in a State or joint Federal-State investigation shall be a crime, just as is a killing in conjunction with a Federal investigation.

Sec. 1207. Killing State correctional officers. Clarifies that Federal criminal penalties regarding assaults by prisoners apply where the person committing the offense was incarcerated prior to a finding of guilt, including pending an initial appearance, arraignment, trial, or appeal.

Sec. 1208. Establishment of protective function privilege. Establishes a privilege against testimony by Secret Service officers charged with protecting the President, those in direct line for the Presidency, and visiting foreign heads of state.

Part 1. Extension of Project Exile

Sec. 1311. Authorization of funding for additional State and local gun prosecutors. Authorizes $150,000,000 in FY2002 to hire additional local and State prosecutors to expand the Project Exile program in high gun-crime areas. Requires interdisciplinary team approach to prevent, reduce, and respond to firearm related crimes in partnership with communities.

Sec. 1312. Authorization of funding for additional Federal firearms prosecutors and gun enforcement teams. Authorizes the Attorney General to hire 114 additional Federal prosecutors to prosecute violations of Federal firearms in up to 20 jurisdictions designated as high crime areas. Authorizes $15,000,000 for FY2002.

Part 2. Expansion of the Youth Crime Gun Interdiction Initiative

Sec. 1321. Youth Crime Gun Interdiction Initiative. Directs the Secretary of the Treasury to expand participation in the Youth Crime Gun Interdiction Initiative (''YCGII''). Authorizes grants to States and localities for purposes of assisting them in the tracing of firearms and participation in the YCGII.

Part 3. Gun Offenses

Sec. 1331. Gun ban for dangerous juvenile offenders. Prohibits juveniles adjudged delinquent for serious drug offenses or violent felonies from receiving or possessing a firearm, and makes it a crime for any person to sell or provide a firearm to someone they have reason to believe has been adjudged delinquent. This section applies only prospectively, and access to firearms may be restored under State restoration of rights provisions, but only if such restoration is on a case-by-case, rather than automatic basis.

Sec. 1332. Improving firearms safety. Requires gun dealers to have secure gun storage devices available for sale, including any device or attachment to prevent a gun's use by one not having regular access to the firearm, or a lockable safe or storage box.

Sec. 1333. Juvenile handgun safety. Increases the maximum penalty for transferring a handgun to a juvenile or for a juvenile to unlawfully possess a handgun from 1 to 5 years.

Sec. 1334. Serious juvenile drug offenses as armed career criminal predicates. Permits the use of an adjudication of juvenile delinquency for a serious drug trafficking offense as a predicate offense for determining whether a defendant falls within the Armed Career Criminal Act. That act provides additional penalties for armed criminals with a proven record of serious crimes involving drugs and violence.

Sec. 1335. Increased penalty for transferring a firearm to a minor for use in crime of violence or drug trafficking crime. Increases the maximum penalty for providing a firearm to a juvenile that one knows will be used in a serious crime from 10 to 15 years.

Sec. 1336. Increased penalty for firearms conspiracy. Subjects conspirators to the same penalties as are provided for the underlying firearm offenses in 18 U.S.C. §924.

Part 4. Closing the Gun Show Loophole

Sec. 1341. Extension of Brady background checks to gun shows. Eliminates the gun show loopholes by requiring criminal background checks on all gun sales at gun shows; clarifies that gun sellers and buyers are not subject to penalties unless they knowingly attempt to circumvent the background checks; and amends the Brady law to prevent the Federal government from keeping records on qualified purchasers for more than 90 days.

Subtitle D. Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

Sec. 1401. Juvenile and violent offender incarceration grants. Authorizes the Attorney General to make grants to States, local governments, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

Sec. 1402. Certain punishment and graduated sanctions for youth offenders. Authorizes the Attorney General to make grants for the purposes of: (1) providing juvenile courts with a range of sentencing options such that first time juvenile offenders face some level of punishment as a result of their initial contact with the juvenile justice system; and (2) increasing the sentencing options available to juvenile court judges. Authorizes appropriations through FY2005.

Sec. 1403. Pilot program to promote replication of recent successful juvenile crime reduction strategies. Directs the Attorney General to establish a pilot program to encourage and support communities that adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after successful State juvenile crime reduction strategies. Authorities appropriations through FY2004.

Sec. 1404. Reimbursement of States for costs of incarcerating juvenile alien offenders. Amends: (1) the Immigration Reform and Control Act of 1986 to provide for the reimbursement of States for the costs of incarcerating juvenile alien offenders; and (2) the Illegal Immigration Reform and Immigrant Reform and Immigrant Responsibility Act of 1996 to require that the annual report on criminal aliens include additional details on illegal juvenile aliens.

Subtitle E. Ballistics, Law Assistance, and Safety Technology

Sec. 1501. Short title. This subtitle may be cited as the ''Ballistics, Law Assistance, and Safety Technology Act'' (''BLAST'').

Sec. 1502. Purposes. Statement of legislative purposes.

Sec. 1511. Definition of ballistics. Defines terms used in this subtitle.

Sec. 1512. Test firing and automated storage of ballistics records. Requires a licensed manufacturer or importer to test fire firearms, prepare ballistics images, make records available to the Secretary of the Treasury for entry in a computerized database, and store the fired bullet and cartridge casings. Directs the Attorney General and the Secretary to assist firearm manufacturers and importers in complying. Specifies that nothing herein creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

Sec. 1513. Privacy rights of law abiding citizens. Prohibits the use of ballistics information of individual guns for (1) prosecutorial purposes, unless law enforcement officials have a reasonable belief that crime has been committed and that ballistics information would assist in the investigation of that crime, or (2) the creation of a national firearms registry of gun owners.

Sec. 1514. Demonstration firearm crime reduction strategy. Directs the Secretary and the Attorney General to establish in the jurisdiction selected a comprehensive firearm crime reduction strategy. Requires the Secretary and the Attorney General to select not fewer than ten jurisdictions for participation in the program. Sets forth provisions regarding selection criteria.

Subtitle F. Offender Reentry and Community Safety

Section 1601. Short title. This subtitle may be cited as the ''Offender Reentry and Community Safety Act of 2001.''

Section 1602. Findings. Legislative findings in support of this subtitle.

Section 1603. Purposes. Statement of legislative purposes.

Part 1. Federal Reentry Demonstration Projects

Section 1611. Federal Reentry Center Demonstration. Establishes the Federal Reentry Center Demonstration project to assist participating prisoners, under close monitoring, in preparing for and adjusting to reentry into the community; details project duration and selection of districts in which to carry out programs.

Section 1612. Federal High-Risk Offender Reentry Demonstration. Establishes the Federal High-Risk Offender Reentry Demonstration project. Uses community corrections facilities and appropriate monitoring technologies to promote effective reentry into the community; notifies victims of prisoner reentry; details project duration and selection of districts in which to carry out programs.

Section 1613. District of Columbia Intensive Supervision, Tracking, and Reentry Training (DC iSTART) Demonstration. Establishes the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. Uses intensive supervision to promote high risk parolees' successful reentry into the community.

Section 1614. Federal Intensive Supervision, Tracking, and Reentry Training (FED iSTART) Demonstration. Establishes the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED iSTART) project. Uses intensive supervision to promote high risk parolees' successful reentry into the community.

Section 1615. Federal Enhanced In-Prison Vocational Assessment and Training Demonstration. Establishes Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project to provide in-prison assessment of prisoners' vocational needs, development, and release readiness, and other programs to prepare Federal prisoners for reentry into the community.

Section 1616. Research and reports to Congress. Defines requirements for reporting on the effectiveness of the programs established in this subtitle.

Section 1617., Definitions. Defines terms used in this subtitle.

Section 1618. Authorization of appropriations. Authorizes appropriations through FY2006.

Part 2. State Reentry Grant Programs

Section 1621. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Establishes adult offender reentry demonstration projects; State and local reentry courts; juvenile offender State and local reentry programs; and State reentry program research, development, and evaluation.

TITLE II: STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A. Combating Gang Violence

Part 1. Enhanced Penalties for Gang Related Activities

Sec. 2101. Gang franchising. Prohibits travel in interstate commerce to create or promote a franchise of a criminal street gang, with penalty of up to 10 years in prison for a violation.

Sec. 2102. Enhanced penalties for use or recruitment of minors in gangs. Requires the United States Sentencing Commission to provide for enhanced penalties for those who use or recruit minors in a criminal street gang franchise.

Sec. 2103. Gang franchising as a RICO predicate. Makes gang franchising a predicate crime for a RICO prosecution.

Sec. 2104. Increase in offense level for participating in crime as a gang member. Requires the United States Sentencing Commission to provide an enhanced penalty for street gang members who commit crimes as a member of the gang.

Sec. 2105. Enhanced penalty for discharge of a firearm in relation to counts of violence or drug trafficking crimes. Requires the United States Sentencing Commission to provide for an enhanced penalty for any defendant who discharges a firearm during the course of a crime of violence or a drug offense.

Sec. 2106. Punishment of arson or bombings at facilities receiving Federal financial assistance. Sets penalties for arson or bombings a facilities of any institution or organization receiving Federal financial assistance.

Sec. 2107. Elimination of statute of limitations for murder. Eliminates the Federal statute of limitations for Federal crimes involving murder regardless of whether the crime carries the death penalty. Lifts the statute of limitation, for example, on RICO offenses involving murder.

Sec. 2108. Extension of statute of limitations for violent and drug trafficking crimes. Extends to 10 years the statute of limitations for Class A felonies involving drug trafficking and crimes of violence.

Sec. 2109. Increased penalties under the RICO law for gang and violent crimes. Raises the maximum term of imprisonment for a violation of RICO to 20 years or life imprisonment.

Sec. 2110. Increased penalty and broadened scope of statute against violent crimes in aid of racketeering. Expands the scope of anti-racketeering laws by including as violations not only threats of violence in aid of racketeering, but also actual acts of violence. Increases maximum penalty for conspiracy to kidnap or murder in aid of racketeering from 10 years to life imprisonment; raises maximum penalty for other actual or attempted crimes of violence in aid of racketeering from 5 to 10 years.

Sec. 2111. Facilitating the prosecution of carjacking offenses. Eliminates requirement that prosecutors prove that a defendant actually intended to cause death or serious bodily injury, as opposed, for example, to using a firearm ''merely'' to threaten the car owner.

Sec. 2112. Facilitation of RICO prosecutions. Eliminates requirement that prosecutors prove that each defendant committed two specific acts of racketeering activity. Brings RICO conspiracy law into line with general conspiracy law.

Sec. 2113. Assault as a RICO predicate. Makes an assault a predicate offense for purposes of the RICO statute

Sec. 2114. Expansion of definition of ''racketeering activity'' to affect gangs in Indian country. Expands the definition of racketeering activity to include acts or threats committed solely in Indian Country.

Sec. 2115. Increased penalties for violence in the course of riot offenses. Changes the current 5 year maximum penalty for violence in the course of a riot to a maximum of life imprisonment where death results, or 20 years where serious bodily injury results.

Sec. 2116. Expansion of Federal jurisdiction over crimes occurring in private penal facilities housing Federal prisoners or prisoners from other States. Expands the definition of prisons under chapter 87 of Title 18 to include, in addition to Federal prisons, private facilities used to house Federal prisoners or for interstate housing of prisoners.

Part 2. Targeting Gang-Related Gun Offenses

Sec. 2121. Transfer of firearm to commit a crime of violence. Increases the ability of prosecutors to punish those who facilitate crimes of violence by providing firearms to criminals. Specifies that it is a crime for a person to transfer a weapon to another when the person has ''reason to know'', or actual knowledge, that the recipient of the weapon will use it to commit a crime of violence.

Sec. 2122. Increased penalty for knowingly receiving firearm with obliterated serial number. Increases from 5 to 10 years the maximum penalty for receiving a firearm with an obliterated serial number, makes the maximum penalty the same as for receiving a firearm known to be stolen.

Sec. 2123. Amendment of sentencing guidelines for transfers of firearms to prohibited persons. Directs the United States Sentencing commission to enhance penalties for the transfer of a firearm to a person whom the defendant has reasonable cause to believe is prohibited from possessing the firearm.

Part 3. Using and Protecting Witnesses to Help Prosecute Gangs and Other Violent Criminals

Sec. 2131. Interstate travel to engage in witness intimidation or obstruction of justice. Adds witness bribery, witness intimidation, obstruction of justice, and related conduct in State criminal proceedings to the list of predicates under the Travel Act.

Sec. 2132. Expanding pretrial detention eligibility for serious gang and other violent criminals. Protects witnesses by expanding eligibility for pretrial detention of gang members likely to harm or intimidate a witness. Allows a court to (1) consider any adjudication of juvenile delinquency in determining the number of prior convictions of a defendant; (2) treat prior convictions for crimes of possession of explosives or firearms as ''crimes of violence''; and (3) consider membership in a criminal street gang as a factor.

Sec. 2133. Conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. Makes a conspiracy to intimidate a witness or to obstruct justice a separate crime punishable by up to the amount of the contemplated crime, as opposed to the five year maximum under the existing general conspiracy statute.

Sec. 2134. Allowing a reduction in sentence for providing useful investigative information although not regarding a particular individual. Clarifies the criminal code and the Federal Rules of Criminal Procedure provisions dealing with reduced sentences in return for cooperation investigation, as opposed to an investigation focused on a particular person.

Sec. 2135. Increasing the penalty for using physical force to tamper with witnesses, victims or informants. Amends the witness tampering statute to include not only killing or attempting to kill a witness, but also any use or attempted use of physical force to deter a witness, and efforts to delay testimony by witnesses or to alter or destroy documents.

Sec. 2136. Expansion of Federal kidnaping offense to cover when death of victim occurs before crossing State line and when facility in interstate commerce or the mails are used. Expands the Federal kidnaping offense to cover situations where the death of the victim occurs before the crossing of any State line, and situations where a facility in interstate commerce or the mails is used, to make clear that the Federal courts have jurisdiction over such cases.

Sec. 2137. Assaults or other crimes of violence for hire. Includes, in addition to murder for hire connected to interstate commerce, all felony crimes of violence against persons under such circumstances as Federal crimes.

Sec. 2138. Clarification of interstate threats statute to cover threats to kill. Clarifies the interstate threats statute covers threats to kill as well as threats merely to injure.

Sec. 2139. Conforming amendment to law punishing obstruction of justice by notification of existence of subpoena for records in certain types of investigations. Expands the list of predicate crimes under the Federal obstruction of justice statute to include the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Internal Revenue Code.

Part 4. Gang Paraphernalia

Sec. 2141. Streamlining procedures for law enforcement access to clone numeric pagers. Allows the use of clone pagers (devices used to capture numbers sent to another pager) with consent or on application to a court.

Sec. 2142. Sentencing enhancement for using body armor in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for crimes committed by persons wearing body armor, and provides an exception where the crime is committed by a police officer, who often wears such armor in the course of official duties.

Sec. 2143. Sentencing enhancement for using laser sighting devices in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for the use or possession of a laser sighting device in the commission of a felony.

Sec. 2144. Government access to location information. Provides that a mobile electronic communications service is to provide the real-time physical location of a customer's cell phone only upon a court order finding probable cause connecting the subscriber to a felony.

Sec. 2145. Limitation on obtaining transactional information from pen registers or trap and trace devices. Provides that ex parte orders for the use of pen registers or trap and trace devices are to direct that the devices be used so as to minimize the interception of information other than that involved in processing the call (i.e. telephone numbers).

Subtitle B. Combating Money Laundering

Sec. 2201. Short title. This subtitle may be cited as the ''Money Laundering Enforcement Act of 2001''.

Sec. 2202. Illegal money transmitting businesses. Provides that a defendant need only know that a money transmitting business lacked a license required by the State law, not that the operation of the business without the license was a criminal violation of State law. Therefore, a prosecutor does not have to provide actual knowledge of State law.

Sec. 2203. Restraint of assets of persons arrested a abroad. Responds to the ease with which money can be transferred from country to country by electronic means, and provides for temporary seizure of property held within the Unites States when a person has been arrested or charged in a foreign country.

Sec. 2204. Civil money laundering jurisdiction over foreign persons.. Provides ''long arm'' jurisdiction over foreign banks engaged in money laundering that have accounts in the United States, so that the foreign bank cannot claim that it lacks the minimum contacts with the United States for in personam jurisdiction.

Sec. 2205. Punishment of laundering money through foreign banks. Amends civil money laundering provisions to include foreign as well as domestic banks in the definition of ''financial institutions''.

Sec. 2206. Addition of serious foreign crimes to list of money laundering predicates. Expands the list of money laundering ''specified unlawful activity,'' or crimes for which money laundering prosecutions can be brought. Includes the following foreign crimes as predictes for a money laundering prosecution: (1) all crimes of violence not currently covered; (2) fraud against a foreign government; (3) bribery of or theft by a foreign official; (4) smuggling weapons; and (5) any other offense for which the United States would extradite the defendant.

Sec. 2207. Criminal forfeiture for money laundering conspiracies.. Makes a conspiracy to commit an existing forfeiture crime a separate criminal violation.

Sec. 2208. Fungible property in foreign bank accounts. Amends fungible property provisions to make them applicable to all forfeitures (e.g., drug violations as well as money laundering violations) and to foreign and domestic banks. Extends the term for bringing fungible property actions from one year to two years. Makes clear that the time runs from the arrest or seizure.

Sec. 2209. Admissibility of foreign business records. Provides that foreign records are admissible in civil proceedings in the same way that they currently are admissible in criminal proceedings.

Sec. 2210. Charging money laundering as a course of conduct. Allows prosecutors to charge a continuing scheme to violate the money laundering statutes as a single count in an indictment, as an alternative to the present requirement that prosecutors charge each transaction as a separate count.

Sec. 2211. Venue in money laundering cases. Establishes that a money laundering prosecution can be brought in any district in which the transaction is conducted, where a prosecution for the underlying specified unlawful activity could be brought, or where an act in any conspiracy took place.

Sec. 2212. Technical amendment to restore wiretap authority for certain money laundering offenses. Restores Federal authority to obtain wiretaps in cases involving illegal structuring of currency transactions.

Sec. 2213. Criminal penalties for violations of anti-money laundering orders. Clarifies that criminal penalties apply to violations of Department of Treasury ''geographic targeting orders'' (temporary orders in enforcement of the Bank Secrecy Act). Violations occur where there are false reports or failures to make required reports.

Sec. 2214. Encouraging financial institution to notify law enforcement of suspicious financial transactions. Expands the definition of financial institutions which may, without civil liability, report suspicious financial transactions to law enforcement officials. Expanded definition includes electronics communications services that facilitate international transfer.

Sec. 2215. Coverage of foreign bank branches in the territories. Expands the definition of ''State'' to include commonwealths, territories, and possessions of the United States for purposes of the International Banking Act of 1978.

Sec. 2216. Conforming statute of limitations amendment for certain bank fraud offenses. Technical amendment to conform section number references.

Sec. 2217. Jurisdiction over certain financial crimes committee abroad. Clarifies United States' jurisdiction over access device fraud (credit card, debit card and telecommunications fraud) where the fraud has an effect on an entity within the United States.

Sec. 2218. Knowledge that property is the process of a felony. Clarifies the law regarding a defendant's knowledge of the source of money in a money laundering transactions. Although the offense must in fact be a felony, it is not necessary that the defendant be aware that the legislature has so classified the offense.

Sec. 2219. Money laundering transactions; commingled accounts. Clarifies the requirement in 18 U.S.A. §1957 that the monetary transaction involve more than $10,000 in criminally derived property. Discusses the impact on money laundering cases of commingled accounts which contain clean money and money in criminally derived property.

Sec. 2220. Laundering the process of terrorism. Corrects an omission in the Antiterrorism and Effective Death Penalty Act of 1996 by making it an offense to launder money which was raised for the material support of a foreign terrorist organization. Current law makes it an offense to raise such funds but not to launder the same.

Sec. 2221. Violations of sections 6050I. Requires any trade or business receiving more than $10,000 in cash to report the transaction to the IRS on Form 8300. Violations of the Form 8300 requirement will be treated the same as CTR and CMIR violations for forfeiture purposes.

Sec. 2222. Including agencies of tribal governments in the definition of a financial institution. Prevent tribes from offering ''offshore banking'' on Indian reservations by forming tribal banks that may conceal deposit records from the Federal Government. Clarifies present law to state that the BSA and money laundering statues apply to banks owned or operated by Indian tribes.

Sec. 2223. Penalties for violations of geographic targeting orders and certain record keeping requirements. Correct ambiguity regarding reporting under the Bank Secrecy Act (BSA). Eliminates doubt concerning the applicability of reporting provisions in reports required by GTOs issued under 31 U.S.C. §5326.

Subtitle C. Antidrug Provisions

Sec. 2301. Amendments concerning temporary emergency scheduling. Authorizes the Attorney General to schedule controlled substances on an emergency basis when that substance proses an immediate threat to health and/or public safety. Provides protections for legitimate researchers.

Sec. 2302. Amendment to reporting requirement for transactions involving certain listed chemicals. Allows reporting of certain transactions involving ephedrine, pseudoephedrine and phenylpropanolamine to be exempted from reporting requirements with no negative impact on law enforcement goals.

Sec. 2303. Drug paraphernalia. Adds ''packaging'' to the list of uses included in the definition of ''drug paraphernalia'' in the Controlled Substances Act (21 U.S.C. §863(d)). Facilitates prosecution of those who manufacture packaging materials, sell them, and possess them.

Sec. 2304. Counterfeit substances/imitation controlled substances. Expands the definition of counterfeit substance. ''Counterfeit substance'' applies to any controlled substance which is represented to be or which imitates another controlled substance regardless of whether that controlled substance is of licit or illicit origin. Adds a new definition for imitation controlled substances.

Sec. 2305. Conforming amendment concerning marijuana plants. Corrects an inconsistency in the penalties relating to marijuana plants that exists between 21 U.S.C. §841(b) and 21 U.S.C. §960(b). The former statute applies to domestic controlled substance trafficking violations and the latter to controlled substance importation offenses. The correction would make identical the number of marijuana plants cited in the provisions.

Sec. 2306. Serious juvenile drug trafficking offenses as armed career criminal act predicates. Permits the use of an adjudication of juvenile delinquency based on a serious drug trafficking offense as a predicate offense under the Armed Career Criminal Act (ACCA), 18 U.S.C. §924(c)(2)(A). The ACCA targets for a lengthy period of at least 15 years' imprisonment those felons found in unlawful possession of a firearm who have proven records of involvement in serious acts of misconduct involving drugs or violence.

Sec. 2307. Increased penalties for using Federal property to grow or manufacture controlled substances. Increases the penalty for cultivating or manufacturing a controlled substance on Federally owned or leased land. Federal law enforcement agencies believe that the use of Federal lands for cultivating and manufacturing controlled substances has increased because there is no possibility that the land will be forfeited as is the case if the cultivation or manufacture took place on private property.

Sec. 2308. Clarification of length of supervised release terms in controlled substance cases. Resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases.

Sec. 2309. Supervised release period after conviction for continuing criminal enterprise. Provides a mandatory minimum period of 10 years of supervised release after a conviction for participation in a continuing criminal enterprise where there is no prior conviction, and a minimum of 15 years where there has been a prior conviction.

Sec. 2310. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes. Ensures that sentencing guidelines promulgated by the United States Sentencing Commission are consistent with the provisions of all Federal statutes.

Sec. 2311. Import and export of chemicals used to produce illicit drugs. Authorizes the Drug Enforcement Administration to require that exporters of certain listed chemicals to drug producing areas of the world document to DEA the ultimate consignee and use of the listed chemical Clarifies DEA's authority to require advance notification of imports and exports including identifying the importer in the country of destination.

Subtitle D. Deterring Cargo Theft

Sec. 2351. Punishment of cargo theft. Clarifies Federal statute governing thefts of vehicles normally used in interstate commerce to include trailers, motortrucks, and air cargo containers; and freight warehouses and transfer stations. Makes such a theft a felony punishable by three (not one) years in prison. Provides for appropriate amendments to the Sentencing Guidelines.

Sec. 2352. Reports to Congress on cargo theft. Mandates annual reports by the Attorney General to evaluate and identify further means of combating cargo theft.

Sec. 2353. Establishment of Advisory Committee on cargo theft. Establishes a six-member Advisory Committee on Cargo Theft with representatives of the Departments of Justice, Treasury and Transportation, and three experts from the private sector. Committee will hold hearing and submit a report within one year with detailed recommendations on cargo security.

Sec. 2354. Addition of attempted theft and counterfeiting offenses to eliminate gaps and inconsistencies in coverage. Amends 22 statutes to clarify that attempt to embezzle funds or counterfeit is a crime, just as is actual embezzlement or counterfeiting.

Sec. 2355. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization. Provides that it is a crime to receive, conceal or retain property stolen from a tribal organization if one knows that the property has been stolen, even if one did not know that it had been stolen from a tribal organization.

Sec. 2356. Larceny involving post office boxes and postal stamp vending machines. Clarifies that it is a crime to steal from a post office box or stamp vending machine irrespective of whether it is in a building used by the Postal Service.

Sec. 2357. Expansion of Federal theft offenses to cover theft of vessels. Expands Federal law covering the transportation of stolen vehicles to include watercraft.

Subtitle E. Improvements to Federal Criminal Law

Part 1. Sentencing Improvements

Sec. 2411. Application of sentencing guidelines to all pertinent statutes. Clarifies that the rules and regulations promulgated by the United States Sentencing Commission are required to be consistent with all pertinent Federal statutes, not just the Federal criminal statues within titles 18 and 28 of the United States Code.

Sec. 2412. Doubling maximum penalty for voluntary manslaughter. Increases the maximum penalty for voluntary manslaughter within the special maritime and territorial jurisdiction of the United States from 10 to 20 years. Brings it in line with related Federal penalties and the higher penalty for voluntary manslaughter in many States.

Sec. 2413. Authorization of imposition of both a fine and imprisonment rather than only either penalty in certain offenses. Provides a uniform rule allowing both fine and imprisonment in all criminal statutes. Addresses drafting errors that have resulted in five Federal criminal statues, 18 U.S.C. §401 (criminal contempt), 18 U.S.C. §1705 (destruction of letter boxes), 18 U.S.C. §1916 (unauthorized employment or disposition of lapsed appropriations), 18 U.S.C. §2234 (willfully exceeding search warrant) and 18 U.S.C. §2235 (maliciously procuring search warrant), where the court can impose either a fine or imprisonment, but not both.

Sec. 2414. Addition of supervised release violation as predicate for certain offenses. Adds supervised release to various statutes which now relate only to probation or parole. Violation of supervised release could serve as a predicate offense in the same ways a violation of probation or parole currently does.

Sec. 2415. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases. Allows a court to impose conditions of parole or supervised release (such as home confinement) where a prisoner has a terminal illness that is contagious.

Sec. 2416. Elimination of proof of value requirement for felony theft or conversion of grand jury material. Eliminates the $1,000

felony threshold for thefts of government property under 18 U.S.C. §641 where the material stolen is grand jury material.

Sec. 2417. Increased maximum corporate penalty for antitrust violations. Increases the maximum statutory fine for corporations convicted of criminal antitrust violations from the current Sherman Act maximum of $10,000,000 to a new maximum of $100,000,000.

Sec. 2418. Amendment of Federal sentencing guidelines for counterfeit bearer obligations of the United States. Directs the United States Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for counterfeiting offenses, to address the recent increase of computer-generated counterfeit U.S. currency produced by inkjet printers and color copiers.

Part 2—Additional Improvements to Federal Criminal Law

Sec. 2421. Violence directed at dwellings in Indian country. Allows the prosecution of Indians as well as non-Indians who commit acts of violence directed against dwellings on Indian reservations. Such crimes currently are not among those specifically listed as prosecutable in the Major Crimes Act.

Sec. 2422. Correction to Amber Hagerman Child Protection Act. Corrects drafting errors in the Amber Hagerman Child Protection Act (a bill regarding the crossing of State lines to engage in sex with a child under 12). Expands penalties for engaging in forcible sex with children ages 12 to 16.

Sec. 2423. Elimination of ''bodily harm'' element in assault with a dangerous weapon offense. Eliminates voluntary intoxication as a defense in the case of a person accused of committing assault with a deadly weapon in the special maritime and territorial jurisdiction of the United States.

Sec. 2424. Appeals from certain dismissals. Clarifies that the government appeal statute authorizes appeal by the United States whenever a court dismisses any part of an indictment or information, so long as the appeal is consistent with the Double Jeopardy Clause. The decision to appeal is to be made by the Solicitor General.

Sec. 2425. Authority for injunction against disposal of ill-gotten gains from violations of fraud statutes. Allows injunctions for fraud when a person is disposing of or about to dispose of property obtained not only as a result of bank fraud, but also as a result of violations of general anti-fraud statutes: a false statement under 18 U.S.C. §1001, a false claim under 18 U.S.C. §287, or a conspiracy to defraud the United States or violate the law under 18 U.S.C. §371.

Sec. 2426. Expansion of interstate travel fraud statute to cover interstate travel by perpetrator. Closes a gap in the interstate travel fraud statute to cover situations where the perpetrator travels in interstate commerce, in addition to situations where the perpetrator transports or causes others to travel in interstate commerce.

Sec. 2427. Clarification scope of unauthorized selling of military medals or decorations. Clarifies that the prohibition against the unauthorized selling of military decorations also covers a person who ''trades, barters or exchanges for . . . value.''

Sec. 2428. Amendment to section 669 to conform to Public Law 104–294. Changes the threshold amount for a felony involving health care fraud from $100 to $1,000.

Sec. 2429. Expansion of jurisdiction over child buying and selling offenses. Expands Federal jurisdiction over child buying and selling statutes to cover, in addition to any territory or possession of the United States, the special maritime and territorial jurisdiction of the United States, and commonwealths and possessions of the United States.

Sec. 2430. Limits on disclosure of wiretap orders. Provides that only an ''aggrieved party'' may have access to Title III applications and orders for wiretaps. Only such aggrieved persons have standing to seek suppression of the resulting intercepted communications.

Sec. 2431. Prison credit and aging prisoner reform. Eliminates inappropriate accrual of custody credit and avoids the resulting unwarranted disparities in time served by Federal offenders. Eliminates disparities in the treatment of foreign and domestic prisoners with respect to ''good time credits''. Permits certain non-dangerous Federal prisoners over the age of 70 to be released after they have served at least 30 years in custody, upon approval of the Bureau of Prisons and a Federal court.

Sec. 2432. Miranda reaffirmation. Repeals 18 U.S.C. §3501, which purported to overturn the Supreme Court's Miranda decision; the Court has held §3501 to be unconstitutional.

TITLE III: PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A. Crime Victims Assistance

Sec. 3101. Short title. This subtitle may be cited as the ''Crime Victims Assistance Act of 2001''.

Part 1. Victim Rights

Sec. 3111. Right to notice and to be heard concerning detention. Require the government to make reasonable efforts to notify victims of upcoming detention hearings and of their right to attend and address the court. Where identification of the defendant remains at issue, provides flexibility to the presiding judge to protect the integrity of the identification.

Sec. 3112. Right to a speedy trial. Require courts to take into account the interests of the victim in the prompt and appropriate disposition of the case.

Sec. 3113. Right to notice and to be heard concerning plea. Require the government to make reasonable efforts to notify victims of upcoming plea hearings and of their right to attend and address the court.

Sec. 3114. Enhanced participatory rights at trial. Extends the Victim Rights Clarification Act to apply to televised proceedings. Amends the Victims' Rights and Restitution Act of 1990 to strengthen the right of crime victims to be present at court proceedings, including trials.

Sec. 3115. Right to notice and to be heard concerning sentence. Directs courts to consider the views of victims in imposing sentence, and requires probation officers to notify victims of their right to attend sentencing proceedings and address the court.

Sec. 3116. Right to notice and to be heard concerning sentence adjustment. Directs the government to make reasonable efforts to notify victims of upcoming hearings concerning revocation or modification of probation or supervised release and of their right to attend and address the court.

Sec. 3117. Right to notice of release or escape. Requires the Bureau of Prisons to ensure victims reasonable notice of an offender's release or escape from custody. Specifically clarifies victim's rights to notification of an offender's release or escape from a psychiatric institution.

Sec. 3118. Right to notice and to be heard concerning executive clemency. Requires the Attorney General to make reasonable efforts to notify victims of the grant of executive clemency, and to report to Congress concerning executive clemency matters delegated for review or investigation to the Attorney General.

Sec. 3119. Remedies for noncompliance. Establishes a mechanism for addressing violations of the newly created statutory rights of crime victims.

Part 2. Victim Assistance Initiatives

Sec. 3121. Pilot programs to establish ombudsman programs for crime victims. Authorizes the establishment of pilot programs to operate Victim Ombudsman Information Centers in seven States, which would provide information to victims concerning their right to participate in the criminal justice process, identify and respond to violations of victims' rights, and educate public officials concerning the rights of victims. Authorizes the use of up to $5 million of False Claims Act funds to make grants for these pilot programs.

Sec. 3122. Amendments to Victims of Crime Act of 1984. Provides for improvements in Federal support for victim assistance and compensation under the Victims of Crime Act. Includes changes in the sources of funding to the Crime Victims Fund and increases the minimum threshold for the annual grant to victim compensation programs.

Sec. 3123. Increased training for law enforcement and court personnel to respond to the needs of crime victims. Authorizes the use of False Claims Act funds to make grants to provide victim-related training.

Sec. 3124. Increased resources to develop state-of-the-art systems for notifying crime victims of important dates and developments. Authorizes grants for the development of crime victim notification systems, using False Claims Act funds and amounts available in the Violent Crime Reduction Trust Fund.

Part 3. Victim-Offender Programs: ''Restorative Justice''

Sec. 3131. Pilot program and study of restorative justice approach on behalf of victims of crime. Authorizes grants for pilot programs in restorative justice in juvenile court settings. Includes a study of existing programs. Requires that participation in pilot programs be voluntary.

Subtitle B. Violence Against Women Act Enhancements

Sec. 3201. Shelter services for battered women and children. Provides assistance to local entities that provide shelter or transitional housing assistance to victims of domestic violence. Provides means to improve access to information on family violence within underserved populations. Reauthorizes funding for the Family Violence Prevention and Services Act at a level of $175,000,000 through FY 2005.

Sec. 3202. Transitional housing assistance for victims of domestic violence. Provides grants to those in need of housing assistance as a result of fleeing a family violence situation. Funding includes assistance with rent, utilities, transportation, and child care.

Sec. 3203. Family unity demonstration project. Extends the Family Unity Demonstration Project through FY 2005.

Subtitle C. Senior Safety

Sec. 3301. Short title. This subtitle may be cited as the ''Seniors Safety Act of 2001''.

Sec. 3302. Finding and purposes. Legislative findings in support of this subtitle, and statement of legislative purposes.

Sec. 3303. Definitions. Defines terms used in this subtitle.

Part 1. Combating Crimes Against Seniors

Sec. 3311. Enhanced sentencing penalties based on age of victim. Directs the U.S. Sentencing Commission to review and, if appropriate, amend the sentencing guidelines to include age as one of the criteria for determining whether a sentencing enhancement is appropriate. Encourages such review to reflect the economic and physical harms associated with criminal activity targeted at seniors and consider providing increased penalties for offenses where the victim was a senior.

Sec. 3312. Study and report on health care fraud sentences. Directs the U.S. Sentencing Commission to review and, if appropriate,

amend the sentencing guidelines applicable to health care fraud offenses. Encourages such review to reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud, and to consider enhanced penalties for persons convicted of health care fraud.

Sec. 3313. Increased penalties for fraud resulting in serious injury or death. Increases the penalties under the mail fraud statute and the wire fraud statute for fraudulent schemes that result in serious injury or death. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

Sec. 3314. Safeguarding pension plans from fraud and theft. Punishes, with up to 10 years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement.

Sec. 3315. Additional civil penalties for defrauding pension plans. Authorizes the Attorney General to bring a civil action for retirement fraud, with penalties up to $50,000 for an individual or $100,000 for an organization, or the amount of the gain to the offender or loss to the victim, whichever is greatest.

Sec. 3316. Punishing bribery and graft in connection with employee benefit plans. Increases the maximum penalty for bribery and graft in connection with the operation of an employee benefit plan from 3 to 5 years' imprisonment. Broadens existing law to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans.

Part 2. Preventing Telemarketing Crime

Sec. 3321. Centralized complaint and consumer education service for victims of telemarketing fraud. Directs the Federal Trade Commission (FTC) to establish a central information clearinghouse for victims of telemarketing fraud and procedures for logging in complaints of telemarketing fraud victims, providing information on telemarketing fraud schemes, referring complaints to appropriate law enforcement officials, and providing complaint or prior conviction information. Directs the Attorney General to establish a database of telemarketing fraud convictions secured against corporations or companies, for uses described above.

Sec. 3322. Blocking of telemarketing scams. Clarifies that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §2326. Authorizes termination of telephone service used to carry on telemarketing fraud. Requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service.

Part 3. Preventing Health Care Fraud

Sec. 3331. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs. Authorizes the Attorney General to take immediate action to halt illegal health care fraud kickback schemes under the Social Security Act. Attorney General may seek a civil penalty of up to $50,000 per violation, or three times the remuneration, whichever is greater, for each offense under this section with respect to a Federal health care program.

Sec. 3332. Authorized investigative demand procedures. Authorizes the Attorney General to issue administrative subpoenas to investigate civil health care fraud cases. Provides privacy safeguards for personally identifiable health information that may be obtained in response to an administrative subpoena and divulged in the course of a Federal investigation.

Sec. 3333. Extending antifraud safeguards to the Federal employees health benefits program. Removes the anti-fraud exemption for the Federal Employee Health Benefits Act (FEHB), thereby extending anti-fraud and anti-kickback safeguards applicable to the Medicare and Medicaid program to the FEHB. Allows the Attorney General to use the same civil enforcement tools to fight fraud perpetrated against the FEHB program as are available to other Federal health care programs, and to recover civil penalties against persons or entities engaged in illegal kickback schemes.

Sec. 3334. Grand jury disclosure. Authorizes Federal prosecutors to seek a court order to share grand jury information regarding health care offenses with other Federal prosecutors for use in civil proceedings or investigations relating to fraud or false claims in connection with any Federal health care program. Permits grand jury information regarding health care offenses to be shared with Federal civil prosecutors, only after ex parte court review and a finding that the information would assist in enforcement of Federal laws or regulations.

Sec. 3335. Increasing the effectiveness of civil investigative demands in false claims investigations. Authorizes the Attorney General to delegate authority to issue civil investigative demands to the Deputy Attorney General or an Assistant Attorney General. Authorizes whistle-blowers who have brought qui tam actions under the False Claims Act to seek permission from a district court to obtain information disclosed to the Justice Department in response to civil investigative demands.

Part 4. Protecting the Rights of Elderly Crime Victims

Sec. 3341. Use of forfeited funds to pay restitution to crime victims and regulatory agencies. Authorizes the use of forfeited funds to pay restitution to crime victims and regulatory agencies.

Sec. 3342. Victim restitution. Allows the government to move to dismiss forfeiture proceedings to allow the defendant to use the property subject to forfeiture for the payment of restitution to victims. If forfeiture proceedings are complete, Government may return the forfeited property so it may be used for restitution.

Sec. 3343. Bankruptcy proceedings not used to shield illegal gains from false claims. Allows an action under the False Claims Act despite concurrent bankruptcy proceedings. Prohibits discharge of debts resulting from judgments or settlements in Medicare and Medicaid fraud cases. Provides that no debt owed for a violation of the False Claims Act or other agreement may be avoided under bankruptcy provisions.

Sec. 3344. Forfeiture for retirement offenses. Requires the forfeiture of proceeds of a criminal retirement offense. Permits the civil forfeiture of proceeds from a criminal retirement offense.

Subtitle D. Violent Crime Reduction Trust Fund

Sec. 3401. Extension of Violent Crime Reduction Trust Fund. Extends funding for the Violent Crime Control and Law Enforcement Act of 1994 through FY2005.

TITLE IV: BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A. Drug Courts, Drug Treatment, and Alternative sentencing

Part 1. Expansion of Drug Courts

Sec. 4111. Reauthorization of drug courts program. Authorizes appropriations for the Drug Courts Program for FY2002 and FY2003 at $400,000,000 each year.

Sec. 4112. Juvenile drug courts. Authorizes grants to States, State and local courts, and Indian tribes, to establish programs for juveniles adjudicated delinquent for non-violent crimes who have substance abuse problems. Programs must include drug testing, drug treatment, and aftercare services such as relapse prevention and vocational training. Authorizes appropriations through FY2005 from the Violent Crime Reduction Trust Fund.

Part 2. Zero Tolerance Drug Testing

Sec. 4121. Grant authority. Authorizes grants to States and localities for programs supporting comprehensive drug testing of criminal justice populations, and to establish appropriate interventions to illegal drug use for offender populations.

Sec. 4122. Administration. Instructs Attorney General to coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

Sec. 4123. Applications. Instructs potential applicants on the process of requesting such grants, which are to be awarded on a competitive basis.

Sec. 4124. Federal share. The Federal share of a grant made under this part may not exceed 75 percent of the total cost of the program.

Sec. 4125. Geographic distribution. The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made, with rural and tribal jurisdiction representation.

Sec. 4126. Technical assistance, training, and evaluation. The Attorney General shall provide technical assistance and training in furtherance of the purposes of this part.

Sec. 4127. Authorization of appropriations. Authorizes $75,000,000 for FY2002 and such sums as are necessary for FY2003 through FY2006.

Sec. 4128. Permanent set-aside for research and evaluation. The Attorney General shall set aside between 1 and 3 percent of the sums appropriated under section 4127 for research and evaluation of this program.

Sec. 4129. Additional requirements for the use of funds under the violent offender incarceration and truth-in-sentencing grant programs. Requires that States receiving grants under the Violent Offender Incarceration and Truth-In-Sentencing grant programs (VOI/TIS) adopt a system of controlled substance testing and interventions. Permits use of VOI/TIS funds for such testing. Adds other conditions for receipt of funding under the VOI/TIS program.

Part 3. Drug Treatment

Sec. 4131. Drug treatment alternative to prison programs administered by State or local prosecutors. Authorizes the Attorney General to make grants to State or local prosecutors to implement or expand drug treatment alternative to prison programs. Authorizes appropriations through FY2006.

Sec. 4132. Substance abuse treatment in Federal prisons reauthorization. Authorizes funding for substance abuse treatment in Federal prisons for FY2002 and FY2003.

Sec. 4133. Residential substance abuse treatment for State prisoners reauthorization. Authorizes appropriations for residential substance abuse treatment for State prisoners through FY2007. Allows States to offer treatment during incarceration and after release.

Sec. 4134. Drug treatment for juveniles. Allows the Director of the Center for Substance Abuse to make grants to public and private nonprofit entities to provide residential drug treatment programs for juveniles. Authorizes appropriations through FY2005.

Part 4. Funding for Drug Free Community Programs

Sec. 4141. Extension of safe and drug-free schools and community programs. Extends funding for the Safe and Drug-Free Schools and Communities Program through FY2005, at $655,000,000 for FY2002 and FY2003, and $955,000,000 for FY2004 and FY2005.

Sec. 4142. Say No to Drugs community centers. Authorizes grants for the provision of drug prevention services to youth living in eligible communities during after-school hours or summer vacations. Authorizes $125,000,000 for each of FY2002 and FY2003 from the Violent Crime Reduction Trust Fund.

Sec. 4143. Drug education and prevention relating to youth gangs. Extends funding under the Anti-Drug Abuse Act of 1988 through FY2006.

Sec. 4144. Drug education and prevention program for runaway and homeless youth. Extends funding under the Anti-Drug Abuse Act of 1988 through FY2006.

Subtitle B—Youth Crime Prevention and Juvenile Courts

Part 1—Grants to Youth Organizations

Sec. 4211. Grant program. Establishes a grant program for provision of (1) constructive activities for youth during critical time periods; (2) supervised activities in a safe environment; (3) anti-drug education; (4) anti-drug police efforts; or (5) a safe environment for activities in parks and other public recreation areas.

Sec. 4212. Grants to national organizations. Establishes application requirements and evaluation criteria for awarding grants to national and statewide organizations.

Sec. 4213. Grants to States. Establishes application requirements and evaluation criteria for awarding grants to States.

Sec. 4214. Allocation; grant limitation. Allocates funds under this subtitle: 20 percent shall go to national and statewide organizations; 80 percent shall go to States.

Sec. 4215. Report and evaluation. Defines reporting requirements and establishes criteria by which the Attorney General shall evaluate the funded programs.

Sec. 4216. Authorization of appropriations. Authorizes appropriation of such sums as may be necessary for FY2002 and FY2003, and $125,000,000 for each of FY2004 and FY2005.

Sec. 4217. Grants to public and private agencies. Authorizes grants to public and private agencies to fund effective after school juvenile crime prevention programs.

Part 2. Reauthorization of Incentive Grants for Local Delinquency Prevention Programs

Sec. 4221. Incentive grants for local delinquency prevention programs. Reauthorizes incentive grants for local delinquency prevention programs through FY2006.

Sec. 4222. Research, evaluation, and training. Allocates a portion of the amounts appropriated for incentive grants for local delinquency programs to research, evaluation and training.

Part 3. JUMP Ahead

Sec. 4231. Short title. This part may be cited as the ''JUMP Ahead Act of 2001''.

Sec. 4232. Findings. Legislative findings in support of this part.

Sec. 4233. Juvenile mentoring grants. Amends the Juvenile Justice and Delinquency Prevention Act of 1973 (JJDPA) to include a list of the intended goals of mentoring grants. Each grant is limited to a total of $200,000 over a period not more than three years. Authorizes $50,000,000 for each of FY2002 through FY2005.

Sec. 4234. Implementation and evaluation grants. Authorizes grants to national organizations or agencies to improve youth mentoring programs. Authorizes $5,000,000 for each of FY2002 through FY2005.

Sec. 4235. Evaluations; reports. Directs the Attorney General to evaluate the programs and activities assisted under this part or under the JJDPA. Requires each grant recipient to report annually to the evaluating organization on any program or activity so assisted.

Part 4. Truancy Prevention

Sec. 4241. Short title. This part may be cited as the ''Truancy Prevention and Juvenile Crime Reduction Act of 2001''.

Sec. 4242. Findings. Legislative findings in support of this part.

Sec. 4243. Grants. Authorizes grants to eligible partnerships to reduce truancy and daytime juvenile crime. Authorizes $25,000,000 for each of FY2002 through FY2004.

Part 5. Juvenile Crime Control and Delinquency Prevention Act

Sec. 4251. Short title. This part may be cited as the ''Juvenile Crime Control and Delinquency Prevention Act of 2001''.

Sec. 4252. Findings. Legislative findings in support of this part.

Sec. 4253. Purpose. Statement of legislative purpose.

Sec. 4254. Definitions. Defines terms used in this part.

Sec. 4255. Name of office. Redesignated the Office of Juvenile and Delinquency Prevention as the Office of Juvenile Crime Control and Delinquency Prevention.

Sec. 4256. Concentration of Federal effort. Modifies provisions of the JJDPA regarding annual submission of juvenile delinquency development statements and the contents of such reports.

Sec. 4257. Allocation. Makes certain technical amendments to the allocation formulas.

Sec. 4258. State plans. Modifies JJDPA requirements regarding State plans. Defines who shall serve on State advisory groups. Requires State plans to provide services in rural areas, offer mental health services, and address gender-specific needs. Defines projects to which funds may be applied. Revises State plan requirements regarding limits on the placement of juveniles in secure detention or correctional facilities.

Sec. 4259. Juvenile delinquency prevention block grant program. Authorizes grants to eligible States to carry out projects designed to prevent juvenile delinquency. Delineates the manner in which funding shall be allocated between States. Defines requirements under which States must consider applications.

Sec. 4260. Research; evaluation; technical assistance; training. Authorizes the Administrator to undertake specified activities regarding research, evaluation, technical assistance, and training. Permits Federal agencies to carry out projects directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

Sec. 4261. Demonstration projects. Authorizes the Administrator to fund initiatives for the prevention, control, or reduction of juvenile delinquency.

Sec. 4262. Authorization of appropriations. Authorizes appropriations for specified programs under the JJDPA for FY2002 through FY2004.

Sec. 4263. Administrative authority. Limits the Administrator's authority to establish rules, regulations and procedures to those necessary for the exercise of the function of the office and to ensure compliance with the requirements of the title.

Sec. 4264. Use of funds. Prohibits the use of funds for the construction of short or long-term juvenile or adult offender facilities; allows up to 15 percent of funds from a State's allocation for replacement or renovation of juvenile facilities.

Sec. 4265. Limitation on use of funds. Prohibits the use of funds under this part for advocacy or support for the unsecured release of juvenile charged with violent crimes.

Sec. 4266. Rules of construction. The JJDPA shall not be construed (1) to prevent financial assistance from being awarded through grants under the JJDPA to any otherwise eligible organization, or (2) to modify or affect any Federal or State law relating to collective bargaining rights.

Sec. 4267. Leasing surplus Federal property. Authorizes the Administrator to lease surplus Federal property to States and localities for use as facilities for juveniles offenders; issues rules for making grants and contracts, and distributing funds available, to carry out the JJDPA.

Sec. 4268. Issuance of rules. Authorizes the Administrator to issue such rules as are necessary to carry out this part.

Sec. 4269. Technical and conforming amendments. Makes technical and conforming amendments to the JJDPA and other laws.

Sec. 4270. References. Any reference to the Office of Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to the Office of Juvenile Crime Control and Delinquency Prevention.

Part 6. Local Gun Violence Prevention Program

Sec. 4271. Competitive grants for children's firearm safety education. Authorizes competitive grants to eligible local educational agencies to educate children about prevention violence. Authorizes $60,000,000 for each of FY2002 and FY2004.

Sec. 4272. Dissemination of best practices via the Internet. Requires the Secretary of Education to post details of programs that receive grants on the Department's Internet site, and to publicize the program on its Internet site and in its publications.

Sec. 4273. Grant priority for tracing guns used in crimes by juveniles. Requires the Bureau of Justice Assistance to give priority to grant applications that include coordinated enforcement strategies to trace firearms and disrupt illegal firearms sales to or among juveniles.

Mr. LEAHY. I am pleased today to join Senator DASCHLE and other Democratic Senators in introducing the 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act. This comprehensive crime bill builds on prior Democratic crime initiatives, including the landmark Violent Crime Control and Law Enforcement Act of 1994, that have substantially reduced the Nations' serious crime rates.

Our current Attorney General, Janet Reno, has helped us all make unprecedented strides in combating violent crime, protecting women's rights, protecting crime victims rights and reducing violence against women. The Nation's serious crime rates have declined for an unprecedented eight straight years. Murder rates have fallen to their lowest levels in three decades, and since 1994, violent crimes by juveniles and the juvenile arrest rates for serious crimes have also declined. Our outgoing Attorney General must be commended for greatly improving the effectiveness of our law enforcement coordination efforts, federal law enforcement assistance efforts and for extending the reach of those efforts into rural areas.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is designed to keep our Nation's crime rates moving in the right direction—downward. The Nation's serious crime rates are now at their lowest level since 1973, the first year the national crime victimization survey was conducted. We are proud of the significant reduction in crime rates, but we must not become complacent. Too many Americans still encounter violence in their neighborhoods, workplaces, and unfortunately, even in their homes. This bill would ensure that the crime rates continue their downward trend next year, the year after, and beyond.

We should be able to enact this bill, without partisan or ideological controversy. We have tried to avoid the easy rhetoric about crime that some have to offer in this crucial area of public policy. Instead, we have crafted a bill that could actually make a difference.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act targets violent crime in our schools, combats gang violence, cracks down on the sale and use of illegal drugs, enhances the rights of crime victims, fights crime against America's senior citizens, and provides meaningful assistance to law enforcement officers in the battle against street crime. The bill represents an important next step in the continuing effort by Senate Democrats to enact tough yet balanced reforms to our criminal justice system.

I should note that the bill contains no new death penalties and no new or increased mandatory minimum sentences. We can be tough without imposing the death penalty, and we can ensure swift and certain punishment without removing all discretion from the judge at sentencing.

Title I of the bill deals with proposals for supporting Federal, State and local law enforcement and promoting the effective administration of justice. this title extends the COPS program through fiscal year 2007, authorizing funding to deploy up to 50,000 additional police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys in the coming years. The bill also extends Project Exile, the Department of Justice's gun violence reduction initiative designed to prosecute felons who unlawfully possess firearms, and the Youth Crime Gun Interdiction Initiative, the national program to disrupt the illegal supply of firearms to juveniles by tracing the guns that are used in crimes, and it includes a provision sponsored by Senator BIDEN to authorize grants to alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into society.

Other important initiatives are included to protect children from violence, including violence resulting from the misuse of guns. Americans want concrete proposals to reduce the risk of such incidents recurring. At the same time, we must preserve adults' rights to use guns for legitimate purposes, such as home protection, hunting and for sport. Title I of the bill imposes a prospective gun ban for juveniles convicted or adjudicated delinquent for violent crimes. It also requires revocation of a firearms dealer's license for failing to have secure gun storage or safety devices available for sale with firearms. The bill enhances the penalties for certain firearm laws involving juveniles. In addition, the bill would close the gun show loophole by requiring criminal background checks on all gun sales at gun shows.

This title of the bill also recognizes that law enforcement officers put their lives on the line every day. According to the FBI, over 1,000 officers have been killed in the line of duty since 1980. The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act establishes new crimes and increases penalties for killing Federal officers and persons working with Federal officers, including in their work with Federal prisoners, and for retaliation against Federal officials by threatening or injuring their family members. The bill enhances the penalty for assaults and threats against Federal judges and other federal officials engaged in their official duties.

A significant problem that arose during Special Prosecutor Kenneth Starr's investigation of president Clinton was the loss of confidentiality that had previously attached to the important work of the U.S. Secret Service. The Departments of Justice and Treasury and even a former Republican President advise that the safety of future Presidents may be jeopardized by forcing U.S. Secret Service agents to breach the confidentiality they need to do their job by testifying before a grant jury. I trust the Secret Service on this issue; they are the experts with the mission of protecting the lives of the President and other high-level official and visiting dignitaries. I also have confidence in the judgment of former President Bush, who has written, ''I feel very strongly that [Secret Service] agents should not be made to appear in court to discuss that which they might or might not have seen or heard.''

Title I of the 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act provides a reasonable and limited protective function privilege so future Secret Service agents are able to maintain the confidentiality they say they need to protect the lives of the President, Vice President and visiting heads of state.

Title II of the bill is aimed at strengthening the Federal criminal laws. This part of the bill cracks down on gangs by making the interstate ''franchising'' of street gangs a crime. It would also increase penalties for crimes during which the convicted felon wears protective body armor or uses ''laser-sighting'' devices to commit the crime, and doubles the maximum criminal penalties for using or threatening physical violence against witnesses and contains other provisions designed to facilitate the use and protection of witnesses to help prosecute gangs and other violent criminals.

Title II of the bill also details provisions for combating money laundering. Crime increasingly has an international face, from drug kingpins to millionaire terrorists, like Osama bin Laden. The money laundering provisions of this bill hit these international criminals where it hurts most—in the pocketbook.

These provisions would provide important tools not just to combat international terrorism but drug trafficking as well. We must have interdiction, we must have treatment programs; we must tell kids to say ''No'' to drugs. But we have to do more, and taking the profit away from international drug lords is an effective weapon. This Democratic crime bill would strengthen these laws.

Title II also contains important initiatives to deter cargo thefts, enhance the maximum penalties for voluntary manslaughter, felony theft or conversion of grand jury material, counterfeiting, and certain antitrust violations committed by corporations.

Title III of the bill is intended to increase the rights of victims within the criminal justice system. The criminal is only half of the equation. This bill guarantees the rights of crime victims. All States recognize victims' rights in some form, but they often lack the training and resources to make those rights a reality. This title provides a model Bill of Rights for crime victims in the Federal system, and makes available to the States grants for victim-related training and state-of-the art notification systems. In addition, this title would authorize grants for pilot programs to operate Victim Ombudsman Information Centers in seven States, and to study the effectiveness of the restorative justice approach for victims. It would also provide assistance for shelters and transitional housing for victims of domestic violence. In short, this title would help make victims' rights a reality.

This title of the bill also includes a number of provisions to improve the safety and security of older Americans. During the 1990s, while overall crime rates dropped throughout the nation, the rate of crime against seniors remained constant. In addition to the increased vulnerability of some seniors to violent crime, older Americans are increasingly targeted by swindlers looking to take advantage of them through telemarketing schemes, pension fraud, and health care fraud. We must strengthen the hand of law enforcement to combat those criminals who plunder the savings that older Americans have worked their lifetimes to earn. The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act tries to do exactly that,

through a comprehensive package of proposals to establish new protections and increase penalties for a wide variety of crimes against seniors.

Title IV of the bill outlines a number of prevention and alternative sentencing programs that are critical to further reducing juvenile crime. These programs include grants to youth organizations and ''Say No to Drugs'' Community Centers, and grants to promote drug testing and drug treatment, as well as reauthorization of the Safe and Drug-Free Schools and Communities Program, the Anti-Drug Abuse Programs, and the Local Deliquency Prevention Programs. Additional sections include a program suggested by Senator BINGAMAN to establish a competitive grant program to reduce truancy, with priority given to efforts to replicate successful programs.

The bill would also reauthorize the Juvenile Justice and Deliquency Prevention Act and create a new juvenile justice block grant program, retaining the four core protections for youth in the juvenile justice system while adopting greater flexibility for rural areas.

In recent years, the Senate Republicans have tried to gut these core protections in their juvenile crime bills. This Democratic crime bill puts ideology aside, and follows the advice of numerous child advocacy experts—including the Children's Defense Fund, National Collaboration for Youth, Youth Law Center and National Network for Youth—who believe these key protections must be preserved in order to protect juveniles who have been arrested or detained. These core protections ensure that juveniles are not housed with adults, do not have verbal or physical contact with adult inmates, and any disproportionate confinement of minority youth is addressed by the States. If these protections are abolished, many more youth may end up committing suicide or being released with serious physical or emotional scars.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is a comprehensive and realistic set of proposals for assisting local enforcement, preventing crime, protecting our children and senior citizens, and assisting the victims of crime. I look forward to working on a bipartisan basis for passage of as much of this bill as possible during the 107th Congress.

By Mr. DASCHLE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. DORGAN, Mr. DURBIN, Mr. BIDEN, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. HARKIN, Mr. JOHNSON, Mr. KENNEDY, Mr. LEAHY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. SCHUMER):

S. 17. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

FEDERAL ELECTIONS REFORM ACT OF 2001

Mr. DASCHLE. 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. 17

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 ''Federal Elections Reform Act of 2001''.

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

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

''(a) NATIONAL COMMITTEES.—

''(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political

party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) FEDERAL ELECTION ACTIVITY.—

''(A) IN GENERAL.—The term 'Federal election activity' means—

''(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

''(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

''(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

''(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

''(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

''(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

''(iii) the costs of a State, district, or local political convention;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

''(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

''(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

''(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

''(e) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, agent of a candidate or individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more candidates or individuals holding Federal office, shall not—

''(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

''(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

''(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

''(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

''(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual who is a candidate for a State or local office in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law for any activity other than a Federal election activity.

''(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1), a candidate may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.''.

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

''(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.''.

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by inserting ''(other than a committee described in subparagraph (D))'' after ''committee''; and

(B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000.''.

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking ''$25,000'' and inserting ''$30,000''.

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 204, is amended by inserting after subsection (f) the following:

''(g) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (2)(B)(v) of section 323(b).

''(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—

''(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

''(i) for a communication that is express advocacy; and

''(ii) that is not coordinated activity or is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.''.

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) EXPRESS ADVOCACY.—

''(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

''(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates;

''(ii) referring to one or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the

date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

''(iii) expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

''(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a communication which is in printed form or posted on the Internet that—

''(i) presents information solely about the voting record or position on a campaign issue of one or more candidates (including any statement by the sponsor of the voting record or voting guide of its agreement or disagreement with the record or position of a candidate), so long as the voting record or voting guide when taken as a whole does not express unmistakable and unambiguous support for or opposition to one or more clearly identified candidates;

''(ii) is not coordinated activity or is not made in coordination with a candidate, political party, or agent of the candidate or party, or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent, except that nothing in this clause may be construed to prevent the sponsor of the voting guide from directing questions in writing to a candidate about the candidate's position on issues for purposes of preparing a voter guide or to prevent the candidate from responding in writing to such questions; and

''(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (year)', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.''.

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) a payment made by a political committee for a communication that—

''(I) refers to a clearly identified candidate; and

''(II) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).''.

SEC. 202. EXPRESS ADVOCACY DETERMINED WITHOUT REGARD TO BACKGROUND MUSIC.

Section 301(20) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(20)), as added by section 201(b), is amended by adding at the end the following new subparagraph:

''(C) BACKGROUND MUSIC.—In determining whether any communication by television or radio broadcast constitutes express advocacy for purposes of this Act, there shall not be taken into account any background music not including lyrics used in such broadcast.''.

SEC. 203. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)''; and

(ii) by adding at the end the following:

''(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).''; and

(B) in paragraph (6)(B), by inserting ''(except an action instituted in connection with a knowing and willful violation of section 304(c))'' after ''subparagraph (A)''; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''Any person'' and inserting ''Except as provided in subparagraph (D), any person''; and

(B) by adding at the end the following:

''(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.''.

SEC. 204. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (e); and

(3) by inserting after subsection (e), as redesignated by paragraph (2), the following:

''(f) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

''(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

''(A) shall be filed with the Commission; and

''(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.''.

SEC. 205. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking ''and (3)'' and inserting '', (3), and (4)''; and

(2) by adding at the end the following:

''(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

''(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

''(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

''(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.''.

SEC. 206. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''or'' at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting ''; or''; and

(iii) by adding at the end the following:

''(iii) coordinated activity (as defined in subparagraph (C)).''; and

(B) by adding at the end the following:

''(C) COORDINATED ACTIVITY.—The term 'coordinated activity' means anything of value provided by a person in coordination with a candidate, an agent of the candidate, or the political party of the candidate or its agent for the purpose of influencing a Federal election (regardless of whether the value being provided is a communication that is express advocacy) in which such candidate seeks nomination or election to Federal office, and includes any of the following:

''(i) A payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, the political party of the candidate, or an agent acting on behalf of a candidate, authorized committee, or the political party of the candidate.

''(ii) A payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat).

''(iii) A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made.

''(iv) A payment made by a person if, in the same election cycle in which the payment is

made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position.

''(v) A payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions (other than any discussion treated as a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or as a similar lobbying activity in the case of a candidate holding State or other elective office) with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made.

''(vi) A payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate (including services provided through a political committee of the candidate's political party) in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign.

''(vii) A payment made by a person who has directly participated in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate.

''(viii) A payment made by a person who has communicated with the candidate or an agent of the candidate (including a communication through a political committee of the candidate's political party) after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member acting on behalf of the candidate), about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy.

''(ix) The provision of in-kind professional services or polling data (including services or data provided through a political committee of the candidate's political party) to the candidate or candidate's agent.

''(x) A payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (ix) for a communication that clearly refers to the candidate or the candidate's opponent and is for the purpose of influencing that candidates's election (regardless of whether the communication is express advocacy).

''(D) PROFESSIONAL SERVICES.—For purposes of subparagraph (C), the term 'professional services' means polling, media advice, fundraising, campaign research or direct mail (except for mailhouse services solely for the distribution of voter guides as defined in section 301(20)(B)) services in support of a candidate's pursuit of nomination for election, or election, to Federal office.

''(E) AGGREGATION.—For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.''.

(2) SECTION 315(a)(7).—Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

''(B) a coordinated activity, as described in section 301(8)(C), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate; and''.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking ''shall include'' and inserting ''includes a contribution or expenditure, as those terms are defined in section 301, and also includes''.

TITLE III—DISCLOSURE

SEC. 301. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by striking ''(b) The Commission'' and inserting the following:

''(b) AUDITS.—

''(1) IN GENERAL.—The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least four members of the Commission.

''(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 302. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking ''$200'' and inserting ''$50''; and

(2) by striking the semicolon and inserting '', except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;''.

SEC. 303. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4) NAME OF COMMITTEE.—

''(A) AUTHORIZED COMMITTEE.—The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) OTHER POLITICAL COMMITTEES.—A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name; or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 304. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a) IN GENERAL.—''; and

(2) by adding at the end the following:

''(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 305. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

(2) by adding at the end the following:

''(c) SPECIFICATION.— Any printed communication described in subsection (a) shall—

''(1) be of sufficient type size to be clearly readable by the recipient of the communication;

''(2) be contained in a printed box set apart from the other contents of the communication; and

''(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

''(d) ADDITIONAL REQUIREMENTS.—

''(1) AUDIO STATEMENT.—

''(A) CANDIDATE.—Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(B) OTHER PERSONS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

''(2) TELEVISION.—If a communication described in paragraph (1)(A) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

''(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.''.

TITLE IV—MISCELLANEOUS

SEC. 401. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

''(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

''(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

''(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

''(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

''(i) reasonable personal notice of the objection procedure, a list of the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

''(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

''(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

''(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures; and

''(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

''(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.''.

SEC. 402. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

''SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

''(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

''(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

''(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

''(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

''(4) for transfers to a national, State, or local committee of a political party.

''(b) PROHIBITED USE.—

''(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

''(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

''(A) a home mortgage, rent, or utility payment;

''(B) a clothing purchase;

''(C) a noncampaign-related automobile expense;

''(D) a country club membership;

''(E) a vacation or other noncampaign-related trip;

''(F) a household food item;

''(G) a tuition payment;

''(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

''(I) dues, fees, and other payments to a health club or recreational facility.''.

SEC. 403. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.''.

SEC. 404. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—

''(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value in connection with a Federal, State, or local election while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

''(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both.''; and

(2) in subsection (b), by inserting ''or Executive Office of the President'' after ''Congress''.

SEC. 405. PENALTIES FOR VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking ''$5,000'' and inserting ''$10,000''; and

(2) in paragraphs (5)(B) and (6)(C), by striking ''$10,000 or an amount equal to 200 percent'' and inserting ''$20,000 or an amount equal to 300 percent''.

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting '', and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).''.

SEC. 406. STRENGTHENING FOREIGN MONEY BAN.

(a) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: ''CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS''; and

(2) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for—

''(1) a foreign national, directly or indirectly, to make—

''(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election; or

''(B) a contribution or donation to a committee of a political party; or

''(2) a person to solicit, accept, or receive such a contribution or donation from a foreign national.''.

(b) PROHIBITING USE OF WILLFUL BLINDNESS AS DEFENSE AGAINST CHARGE OF VIOLATING FOREIGN CONTRIBUTION BAN.—

(1) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

''(b) PROHIBITING USE OF WILLFUL BLINDNESS DEFENSE.—It shall not be a defense to a violation of subsection (a) that the defendant did not know that the contribution originated from a foreign national if the defendant should have known that the contribution originated from a foreign national, except that the trier of fact may not find that the defendant should have known that the contribution originated from a foreign national solely because of the name of the contributor.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 407. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

''SEC. 324. PROHIBITION OF CONTRIBUTIONS BY MINORS.

''An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.''.

SEC. 408. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by adding at the end the following:

''(13) EXPEDITED PROCEDURE.—

''(A) IN GENERAL.—If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

''(B) CLEAR AND CONVINCING EVIDENCE EXISTS.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient

time before the election to avoid harm or prejudice to the interests of the parties.

''(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

''(C) REFERRAL TO ATTORNEY GENERAL.—The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.''.

SEC. 409. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking ''reason to believe that'' and inserting ''reason to investigate whether''.

SEC. 410. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101 and 407, is amended by adding at the end the following:

''SEC. 325. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

''(a) IN GENERAL.—Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.

''(b) NO EFFECT ON GEOGRAPHIC RESTRICTIONS ON CONTRIBUTIONS.—Subsection (a) may not be construed to affect any restriction under this title regarding the portion of contributions accepted by a candidate from persons residing in a particular geographic area.''.

SEC. 411. PENALTY FOR VIOLATION OF PROHIBITION AGAINST FOREIGN CONTRIBUTIONS.

(a) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e), as amended by section 406(b), is amended—

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

(2) by inserting after subsection (b) the following:

''(c) PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this title, any person who violates subsection (a) shall be sentenced to a term of imprisonment which may not be more than 10 years, fined in an amount not to exceed $1,000,000, or both.

''(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any violation of subsection (a) arising from a contribution or donation made by an individual who is lawfully admitted for permanent residence (as defined in section 101(a)(22) of the Immigration and Nationality Act).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 412. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

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

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

''(d) PRIVATE ACTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

''(2) VIOLATIONS.—A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

''(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

''(B) whether an expenditure is an independent expenditure under section 301(17).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of enactment of this Act.

SEC. 413. CONSPIRACY TO VIOLATE PRESIDENTIAL CAMPAIGN SPENDING LIMITS.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility for payments) is amended by adding at the end the following:

''(f) PROHIBITING CONSPIRACY TO VIOLATE LIMITS.—

''(1) VIOLATION OF LIMITS DESCRIBED.—If a candidate for election to the office of President or Vice President who receives amounts from the Presidential Election Campaign Fund under chapter 95 or 96 of the Internal Revenue Code of 1986, or the agent of such a candidate, seeks to avoid the spending limits applicable to the candidate under such chapter or under the Federal Election Campaign Act of 1971 by soliciting, receiving, transferring, or directing funds from any source other than such Fund for the direct or indirect benefit of such candidate's campaign, such candidate or agent shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

''(2) CONSPIRACY TO VIOLATE LIMITS DEFINED.—If two or more persons conspire to commit a violation described in paragraph (1), and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of enactment of this Act.

SEC. 414. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 407, and 410, is amended by adding at the end the following:

''SEC. 326. TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS RETURNED TO DONORS.

''(a) TRANSFER TO COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

''(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

''(B) the contribution or donation was made in violation of section 315, 316, 317, 319, 320, or 325 (other than a contribution or donation returned within 30 days of receipt by the committee).

''(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

''(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

''(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

''(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

''(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

''(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

''(i) deposit the amount in the escrow account established under subparagraph (A); and

''(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

''(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

''(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

''(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

''(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

''(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

''(A) within 180 days after the date the contribution or donation is transferred, the

Commission has not made a determination under section 309(a)(2) that the Commission has reason to investigate whether that the making of the contribution or donation was made in violation of this Act; or

''(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

''(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

''(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.''.

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following:

''(10) AMOUNT OF DONATION.—For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.''.

(c) DISGORGEMENT AUTHORITY.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g), as amended by section 412(a), is amended by adding at the end the following:

''(f) DEPOSIT IN ESCROW.—Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contributions or donations refunded on or after the date of enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

SEC. 415. ESTABLISHMENT OF A CLEARINGHOUSE OF INFORMATION ON POLITICAL ACTIVITIES WITHIN THE FEDERAL ELECTION COMMISSION.

(a) ESTABLISHMENT.—There shall be established within the Federal Election Commission a clearinghouse of public information regarding the political activities of foreign principals and agents of foreign principals. The information comprising this clearinghouse shall include only the following:

(1) All registrations and reports filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) during the preceding 5-year period.

(2) All registrations and reports filed pursuant to the Foreign Agents Registration Act (22 U.S.C. 611 et seq.) during the preceding 5-year period.

(3) The listings of public hearings, hearing witnesses, and witness affiliations printed in the Congressional Record during the preceding 5-year period.

(4) Public information disclosed pursuant to the rules of the Senate or the House of Representatives regarding honoraria, the receipt of gifts, travel, and earned and unearned income.

(5) All reports filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) during the preceding 5-year period.

(6) All public information filed with the Federal Election Commission pursuant to the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) during the preceding 5-year period.

(b) DISCLOSURE OF OTHER INFORMATION PROHIBITED.—The disclosure by the clearinghouse, or any officer or employee thereof, of any information other than that set forth in subsection (a) is prohibited, except as otherwise provided by law.

(c) DIRECTOR OF CLEARINGHOUSE.—

(1) DUTIES.—The clearinghouse shall have a Director, who shall administer and manage the responsibilities and all activities of the clearinghouse. In carrying out such duties, the Director shall—

(A) develop a filing, coding, and cross-indexing system to carry out the purposes of this section (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

(B) notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the information is first available to the public, and permit copying of any such registration, report, or other information by hand or by copying machine or, at the request of any person, furnish a copy of any such registration, report, or other information upon payment of the cost of making and furnishing such copy, except that no information contained in such registration or report and no such other information shall be sold or used by any person for the purpose of soliciting contributions or for any profitmaking purpose; and

(C) not later than 150 days after the date of enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General, such rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this section in the most effective and efficient manner.

(2) APPOINTMENT.—The Director shall be appointed by the Federal Election Commission.

(3) TERM OF SERVICE.—The Director shall serve a single term of a period of time determined by the Commission, but not to exceed 5 years.

(d) PENALTIES FOR DISCLOSURE OF INFORMATION.—Any person who discloses information in violation of subsection (b), and any person who sells or uses information for the purpose of soliciting contributions or for any profitmaking purpose in violation of subsection (c)(1)(B), shall be imprisoned for a period of not more than 1 year, or fined in the amount provided in title 18, United States Code, or both.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to conduct the activities of the clearinghouse.

(f) FOREIGN PRINCIPAL.—In this section, the term ''foreign principal'' shall have the same meaning given the term ''foreign national'' under section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e), as in effect as of the date of enactment of this Act.

SEC. 416. ENFORCEMENT OF SPENDING LIMIT ON PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES WHO RECEIVE PUBLIC FINANCING.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 413, is amended by adding at the end the following:

''(g) ILLEGAL SOLICITATION OF SOFT MONEY.—No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless the candidate certifies that the candidate shall not solicit any funds for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

SEC. 417. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(d)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(d)(2)), as amended by sections 506(b) and 511(a), is further amended by inserting after ''United States'' the following: ''or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)''.

SEC. 418. PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING.

(a) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 612. Prohibiting use of meals and accommodations at White House for political fundraising

''(a) It shall be unlawful for any person to provide or offer to provide any meals or accommodations at the White House in exchange for any money or other thing of value, or as a reward for the provision of any money or other thing of value, in support of any political party or the campaign for electoral office of any candidate.

''(b) Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.

''(c) For purposes of this section, any official residence or retreat of the President (including private residential areas and the grounds of such a residence or retreat) shall be treated as part of the White House.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following new item:

''612. Prohibiting use of meals and accommodations at White House for political fundraising.''.

SEC. 419. PROHIBITION AGAINST ACCEPTANCE OR SOLICITATION TO OBTAIN ACCESS TO CERTAIN FEDERAL GOVERNMENT PROPERTY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 226. Acceptance or solicitation to obtain access to certain Federal Government property

''Whoever solicits or receives anything of value in consideration of providing a person with access to Air Force One, Marine One, Air Force Two, Marine Two, the White House, or the Vice President's residence, shall be fined under this title, or imprisoned not more than one year, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

''226. Acceptance or solicitation to obtain access to certain Federal Government property.''.

SEC. 420. REQUIRING NATIONAL PARTIES TO REIMBURSE AT COST FOR USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended

by sections 101, 407, 410, and 415, is amended by adding at the end the following:

"SEC. 327. REIMBURSEMENT BY POLITICAL PARTIES FOR USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING.

''(a) IN GENERAL.—If the President, Vice President, or the head of any executive department (as defined in section 101 of title 5, United States Code) uses Air Force One for transportation for any travel which includes a fundraising event for the benefit of any political committee of a national political party, such political committee shall reimburse the Federal Government for the fair market value of the transportation of the individual involved, based on the cost of an equivalent commercial chartered flight.

''(b) AIR FORCE ONE DEFINED.—In subsection (a), the term 'Air Force One' means the airplane operated by the Air Force which has been specially configured to carry out the mission of transporting the President.''.

SEC. 421. ENHANCING ENFORCEMENT OF CAMPAIGN FINANCE LAW.

(a) MANDATORY IMPRISONMENT FOR CRIMINAL CONDUCT.—Section 309(e)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(e)(1)(A)), as redesignated by section 412, is amended—

(1) in the first sentence, by striking ''shall be fined, or imprisoned for not more than one year, or both'' and inserting ''shall be imprisoned for not fewer than 1 year and not more than 10 years''; and

(2) by striking the second sentence.

(b) CONCURRENT AUTHORITY OF ATTORNEY GENERAL TO BRING CRIMINAL ACTIONS.—Section 309(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)), as so redesignated, is amended by adding at the end the following:

''(4) ATTORNEY GENERAL ACTION.—In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 2001.

SEC. 422. BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY BY PRESIDENTIAL CANDIDATES RECEIVING PUBLIC FINANCING.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 416, is amended by adding at the end the following:

''(h) BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY.—

''(1) IN GENERAL.—No candidate for election to the office of President or Vice President who is certified to receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 may coordinate the expenditure of any funds for issue advocacy with any political party unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

''(2) ISSUE ADVOCACY DEFINED.—In this section, the term 'issue advocacy' means any activity carried out for the purpose of influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations (without regard to whether the activity is carried out for the purpose of influencing any election for Federal office).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

SEC. 423. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) DEFINITION OF PERSON.—As used in this section, the term ''non-Government person'' means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

TITLE V—ELECTION ADMINISTRATION AND TECHNOLOGY

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental and incontrovertible right under the Constitution.

(2) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the right to vote is a fundamental right under the Constitution.

(3) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the United States is a democratic government ''of the people, by the people and for the people'' where every vote counts.

(4) There is a need for Congress to encourage and enable every eligible American to vote by eliminating procedural and technological obstacles to voting.

(5) State governments have already begun to examine ways to improve the administration of elections and to modernize mechanisms and machinery for voting.

(6) Congress has authority under section 5 of the Fourteenth Amendment to the Constitution of the United States to enact legislation to address the equal protection violations that may be caused by our current, outdated voting system.

(7) Congress has an obligation to ensure that the necessary resources are available to States and localities to improve election technology and election administration and to ensure the integrity of the democratic elections process.

Subtitle A—Establishment of Commission on Voting Rights and Procedures

SEC. 511. ESTABLISHMENT.

There is established the Commission on Voting Rights and Procedures (in this subtitle referred to as the ''Commission'').

SEC. 512. MEMBERSHIP OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members of whom—

(1) 6 members shall be appointed by the President;

(2) 3 members shall be appointed by the Minority Leader of the Senate (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the Senate); and

(3) 3 members shall be appointed by the Minority Leader of the House of Representatives (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the House of Representatives).

(b) QUALIFICATIONS.—Each member appointed under subsection (a) shall be chosen on the basis of—

(1) experience with, and knowledge of—

(A) election law;

(B) election technology;

(C) Federal, State, or local election administration;

(D) the United States Constitution; or

(E) the history of the United States; and

(2) integrity, impartiality, and good judgment.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each member shall be appointed for the life of the Commission.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy in the Commission shall not affect its powers.

(B) MANNER OF REPLACEMENT.—A vacancy on the Commission shall be filled in the same manner which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment not later than 60 days after the date of the vacancy.

(d) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—The Commission shall elect a chairperson and vice chairperson from among its members.

(2) POLITICAL AFFILIATION.—The chairperson and vice chairperson may not be affiliated with the same political party.

(e) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 45 days after the date of enactment of this Act.

(f) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 20 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) VOTING.—Each action of the Commission shall be approved by a majority vote of members. Each member shall have 1 vote.

SEC. 513. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of—

(A) election technology and systems;

(B) designs of ballots and the uniformity of ballots;

(C) access to polling places, including matters relating to access for individuals with disabilities and other individuals with particular needs;

(D) voter registration and maintenance of voter rolls, including the use of provisional voting and standards for reenfranchisement of voters;

(E) alternative voting methods;

(F) accuracy of voting, election procedures, and election technology;

(G) voter education;

(H) training election personnel and volunteers;

(I)(i) implementation of title I of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff et seq.), and the amendments made by title II of that Act, by—

(I) the Secretary of Defense;

(II) each other Federal Government official having a responsibility under that Act; and

(III) each State; and

(ii) whether any legislative or administrative action is necessary to provide a meaningful opportunity to register to vote in, and vote in, elections for Federal office (as defined in paragraph (3) of section 107 of that Act (42 U.S.C. 1973ff–6)) for—

(I) each absent uniformed services voter (as defined in paragraph (1) of such section); and

(II) each overseas voter (as defined in paragraph (5) of such section) to register to vote and vote in elections for Federal office);

(J) the feasibility and advisability of establishing the date on which elections for Federal office (as so defined) are held as a Federal or State holiday; and

(K)(i) how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections; and

(ii) whether an existing or a new Federal agency should provide such assistance.

(2) WEBSITE.—For purposes of conducting the study under this subsection, the Commission shall establish an Internet website to facilitate public comment and participation.

(b) RECOMMENDATIONS.—

(1) RECOMMENDATIONS OF BEST PRACTICES IN VOTING AND ELECTION ADMINISTRATION.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) that identify those methods of voting and administering elections studied by the Commission that would—

(A) be most convenient, accessible, and easy to use for voters in Federal elections, including voters with disabilities, absent uniformed services voters, overseas voters, and other voters with special needs;

(B) yield the broadest participation and most accurate results in Federal elections;

(C) be the most resource-efficient and cost-effective for use in Federal elections; and

(D) be the most effective means of ensuring security in Federal elections.

(2) RECOMMENDATIONS FOR PROVIDING ASSISTANCE IN FEDERAL ELECTIONS.—The Commission shall develop recommendations with respect to the matters studied under subsection (a)(1)(K) on how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections, and identify whether an existing or a new Federal agency should provide such assistance.

(3) RECOMMENDATIONS FOR VOTER PARTICIPATION IN FEDERAL ELECTIONS.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) on methods—

(A) to increase voter registration;

(B) to increase the accuracy of voter rolls;

(C) to improve voter education; and

(D) to improve the training of election personnel and volunteers.

(c) REPORTS.—

(1) INTERIM REPORTS.—Not later than the date on which the Commission submits the final report under paragraph (2), the Commission may submit to the President and Congress such interim reports as a majority of the members of the Commission determine appropriate.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Commission shall submit to the President and Congress a final report that has received the approval of a majority of the members of the Commission.

(B) CONTENT.—The final report shall contain—

(i) a detailed statement of the findings and conclusions of the Commission on the matters studied under subsection (a);

(ii) a detailed statement of the recommendations developed under subsection (b); and

(iii) any dissenting or minority opinions of the members of the Commission.

SEC. 514. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Any subpoena issued under subsection (a) shall be issued by the chairperson and vice chairperson of the Commission acting jointly. Each subpoena shall bear the signature of the chairperson of the Commission and shall be served by any person or class of persons designated by the chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the chairperson and vice chairperson of the Commission acting jointly, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the chairperson and vice chairperson of the Commission acting jointly, the Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this subtitle.

(g) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this subtitle.

SEC. 515. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The chairperson and vice chairperson of the Commission, acting jointly, may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairperson and vice chairperson of the Commission, acting jointly, may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson and vice chairperson of the Commission, acting jointly, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 516. TERMINATION OF THE COMMISSION.

The Commission shall terminate 45 days after the date on which the Commission submits its final report under section 513(c)(2).

SEC. 517. AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle B—Grant Program

SEC. 521. ESTABLISHMENT OF GRANT PROGRAM.

The Attorney General, subject to the general policies and criteria established under section 523, in consultation with the Federal Election Commission, is authorized to make grants to States to pay the Federal share of the costs of the activities described in section 522.

SEC. 522. AUTHORIZED ACTIVITIES.

A State may use payments received under this subtitle to—

(1) improve or replace voting equipment or technology;

(2) implement new election administration procedures, such as ''same-day'' voter registration procedures;

(3) educate voters concerning voting procedures, voting rights, or voting technology and train election personnel; and

(4) upon completion of the final report under section 513(c), implement recommendations contained in such report.

SEC. 523. GENERAL POLICIES AND CRITERIA.

(a) GENERAL POLICIES.—The Attorney General shall establish general policies with respect to the approval of State plans, awarding of grants, and the use of assistance made available under this subtitle.

(b) CRITERIA.—

(1) IN GENERAL.—The Attorney General shall establish criteria with respect to the approval of State plans submitted under section 524, including the requirements under paragraph (2).

(2) REQUIREMENTS FOR APPROVAL.—The Attorney General shall not approve a State plan unless the plan provides for each of the following:

(A) Uniform standards within the State for election administration and technology.

(B) Accuracy of the records of eligible voters in the State to ensure that legally registered voters appear in such records and prevent any purging of such records to remove illegal voters that results in the elimination of legal voters as well.

(C) Voting accessibility standards that ensure—

(i) compliance with the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.);

(ii) compliance with the Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.); and

(iii) that absent uniformed service voters and their dependents have a meaningful opportunity to exercise their voting rights as citizens of the United States.

(D) Voter education programs regarding methodology and procedures for participating in elections and training programs for election personnel and volunteers.

(c) CONSULTATION.—In establishing the general policies and criteria under this section, the Attorney General shall consult with the Federal Election Commission.

SEC. 524. SUBMISSION OF STATE PLANS.

(a) IN GENERAL.—Subject to subsection (c), the chief executive officer of each State that desires to receive a grant under this subtitle shall submit a State plan to the Attorney General at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Federal Election Commission, may reasonably require.

(b) CONTENTS.—Each State plan submitted under subsection (a) shall—

(1) describe the activities for which assistance under this subtitle is sought;

(2) provide evidence that the State meets the general policies and criteria established by the Attorney General under section 523;

(3) provide assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General, in consultation with the Federal Election Commission, determines to be essential to ensure compliance with the requirements of this subtitle.

(c) AVAILABLE FOR REVIEW AND COMMENT.—A State submitting a State plan under this section shall make such State plan publicly available for review and comment prior to submission.

SEC. 525. APPROVAL OF STATE PLANS.

The Attorney General, in consultation with the Federal Election Commission, shall approve State plans in accordance with the general policies and criteria established under section 523.

SEC. 526. FEDERAL MATCHING FUNDS.

(a) PAYMENTS.—The Attorney General shall pay to each State having a State plan approved under section 525 the Federal share of the cost of the activities described in the State plan.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsection (a), the Federal share shall be 80 percent.

(2) WAIVER.—The Attorney General may specify a Federal share greater than 80 percent if the State agrees to comply with such terms and conditions as the Attorney General may prescribe.

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

SEC. 527. AUDITS AND EXAMINATIONS.

(a) RECORDKEEPING REQUIREMENT.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) AUDIT AND EXAMINATION.—

(1) AUTHORITY.—Subject to paragraph (2), the Attorney General and the Comptroller General of the United States, or any authorized representative of the Attorney General or the Comptroller General, shall have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to a grant received under this subtitle for the purpose of conducting an audit or examination.

(2) EXPIRATION OF AUTHORITY.—The authority of the Attorney General and the Comptroller General conduct an audit or examination under this subsection with respect to the recipient of a grant under this subtitle shall expire on the date that is 3 years after the date on which the activity for which an State plan is approved under section 524 concludes.

SEC. 528. REPORTS.

(a) REPORTS TO CONGRESS.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the program under this subtitle for the preceding year. Each report shall set forth the following:

(1) A description and analysis of any activities funded by a grant awarded under this subtitle.

(2) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General shall require in each grant awarded under this subtitle that the recipient of such grant submit to the Attorney General, under a schedule established by the Attorney General, such information as the Attorney General considers appropriate to submit reports under subsection (a).

SEC. 529. STATE DEFINED.

In this subtitle, the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands.

SEC. 530. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice—

(A) $500,000,000 for fiscal year 2002;

(B) such amounts as necessary for each of fiscal years 2003, 2004, 2005, and 2006.

(2) USE OF AMOUNTS.—Amounts appropriated under paragraph (1) shall be for the purpose of—

(A) awarding grants under this subtitle; and

(B) paying for the costs of administering the program to award such grants.

(3) FEDERAL ELECTION COMMISSION.—There are authorized to be appropriated for each of fiscal years 2002, 2003, 2004, 2005, and 2006 such amounts as necessary to the Federal Election Commission for the purpose of consultation with the Attorney General under this subtitle.

(b) LIMITATION.—Not more than 1 percent of any sums appropriated under paragraph (1) of subsection (a) may be used to pay for the administrative costs described in paragraph (2)(B) of such subsection.

(c) SUPPLEMENTAL APPROPRIATIONS.—There are authorized to be appropriated as supplemental appropriations for fiscal year 2001 such sums as the Department of Justice and the Federal Election Commission consider necessary to carry out the provisions of this subtitle.

Subtitle C—Miscellaneous

SEC. 541. RELATIONSHIP TO OTHER LAWS.

Nothing in this title may be construed to authorize, require, or supersede conduct prohibited under the following laws, or otherwise affect such laws:

(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(2) The Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.).

(3) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(4) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(5) The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

TITLE VI—MILITARY VOTING

SEC. 601. SHORT TITLE.

This title may be cited as the ''Military Voting Rights Act of 2001''.

SEC. 602. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 590 et seq.) is amended by adding at the end the following:

''SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become resident in or a resident of any other State.

''(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.''.

SEC. 603. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting ''(a) ELECTIONS FOR FEDERAL OFFICES.—'' before ''Each State shall—''; and

(2) by adding at the end the following:

''(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

''(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

''(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.''.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out ''**FOR FEDERAL OFFICE**''.

TITLE VII—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 702. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 703. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect upon the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 704. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 45 days after the date of the enactment of this Act.

Mr. DASCHLE (for himself, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, Mr. WELLSTONE, Mrs. CLINTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. BOXER, Mr. JOHNSON, Mr. CORZINE, and Mr. BREAUX):

S. 18. A bill to increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RIGHT START ACT OF 2001

Mr. DASCHLE. 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:

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 ''Right Start Act of 2001''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—INVESTING IN HEAD START PROGRAMS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by striking ''such sums'' and all that follows and inserting the following: ''$6,500,000,000 for fiscal year 2002, $7,000,000,000 for fiscal year 2003, $7,750,000,000 for fiscal year 2004, $8,500,000,000 for fiscal year 2005, and $9,750,000,000 for fiscal year 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) RESERVATIONS.—Paragraphs (1) and (3) of section 639(b) of the Head Start Act (42 U.S.C. 9834(b)) are amended by striking ''2003'' and inserting ''2006''.

(2) DISTRIBUTION.—Paragraphs (3)(A)(i)(I) and (6)(A) of section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) are amended by striking ''fiscal year 2003'' and inserting ''each of fiscal years 2003 through 2006''.

TITLE II—INVESTING IN QUALITY CHILD CARE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by striking ''$1,000,000,000'' and all that follows and inserting ''$2,076,000,000 for fiscal year 2002, $2,109,000,000 for fiscal year 2003, $2,571,000,000 for fiscal year 2004, $3,051,000,000 for fiscal year 2005, and $3,766,000,000 for fiscal year 2006.''.

(b) SOCIAL SECURITY ACT FUNDING FOR CHILD CARE.—Section 418(a)(3) of the Social Security Act (42 U.S.C. 618(a)(3)) is amended—

(1) in subparagraph (E), by striking ''; and'';

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $2,870,000,000 for fiscal year 2002;

''(H) $2,936,000,000 for fiscal year 2003;

''(I) $3,861,000,000 for fiscal year 2004;

''(J) $4,821,000,000 for fiscal year 2005; and

''(K) $3,766,000,000 for fiscal year 2006.''.

TITLE III—PROMOTING EARLY LEARNING OPPORTUNITIES

SEC. 301. AMENDMENTS TO THE EARLY LEARNING OPPORTUNITIES ACT.

Section 805 of the Early Learning Opportunities Act, as enacted by title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554) is amended—

(1) in the matter preceding paragraph (1), by inserting '', and there are appropriated,''; and

(2) by striking paragraphs (1) through (4) and inserting the following:

''(1) $750,000,000 for fiscal year 2002;

''(2) $1,000,000,000 for fiscal year 2003;

''(3) $1,500,000,000 for fiscal year 2004;

''(4) $2,000,000,000 for fiscal year 2005; and

''(5) $2,500,000,000 for fiscal year 2006.''.

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000, and

''(B) in the case of employment-related expenses described in subsection (e)(11), 50 percent reduced (but not below zero) by 1 percentage point for each $800, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.''.

(b) INFLATION ADJUSTMENT FOR ALLOWABLE EXPENSES.—Section 21(c) of the Internal Revenue Code of 1986 (relating to dollar limit on amount creditable) is amended by striking ''The amount determined'' and inserting ''In the case of any taxable year beginning after 2002, each dollar amount referred to in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) IN GENERAL.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

''(11) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 1 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the sum of—

''(A) $90 for each month in such taxable year during which at least one of such qualifying individuals is under the age of 1, and

''(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 403. CREDIT MADE REFUNDABLE.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 of such Code (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following:

''SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

''(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

''(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

''(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

''(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

''(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

''(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

''(5) states the number of qualifying individuals in the household maintained by the employee, and

''(6) estimates the amount of employment-related expenses for the calendar year.

''(c) DEPENDENT CARE ADVANCE AMOUNT.—

''(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

''(A) on the basis of the employee's wages from the employer for such period,

''(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

''(C) in accordance with tables provided by the Secretary.

''(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

''(e) DEFINITIONS.—For purposes of this section, terms used in this section which are defined in section 35 shall have the respective meanings given such terms by section 35.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 35(a)(1) of such Code, as redesignated by paragraph (1), is amended by striking ''chapter'' and inserting ''subtitle''.

(2) Section 35(e) of such Code, as so redesignated and amended by subsection (c), is amended by adding at the end the following:

''(12) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.''.

(3) Sections 23(f)(1) and 129(a)(2)(C) of such Code are each amended by striking ''section 21(e)'' and inserting ''section 35(e)''.

(4) Section 129(b)(2) of such Code is amended by striking ''section 21(d)(2)'' and inserting ''section 35(d)(2)''.

(5) Section 129(e)(1) of such Code is amended by striking ''section 21(b)(2)'' and inserting ''section 35(b)(2)''.

(6) Section 213(e) of such Code is amended by striking ''section 21'' and inserting ''section 35''.

(7) Section 995(f)(2)(C) of such Code is amended by striking ''and 34'' and inserting ''34, and 35''.

(8) Section 6211(b)(4)(A) of such Code is amended by striking ''and 34'' and inserting '', 34, and 35''.

(9) Section 6213(g)(2)(H) of such Code is amended by striking ''section 21'' and inserting ''section 35''.

(10) Section 6213(g)(2)(L) of such Code is amended by striking ''section 21, 24, or 32'' and inserting ''section 24, 32, or 35''.

(11) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

''Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

''Sec. 36. Overpayments of tax.''.

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following:

''Sec. 3507A. Advance payment of dependent care credit.''.

(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or'' before ''enacted'' and by inserting before the period at the end '', or from section 35 of such Code''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) 25 percent of the qualified child care expenditures, and

''(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(i) to acquire, construct, rehabilitate, or expand property—

''(I) which is to be used as part of a qualified child care facility of the taxpayer,

''(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

''(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

''(I) day care and before and after school care,

''(II) transportation associated with such care, and

''(III) before and after school and holiday programs including educational and recreational programs and camp programs.

''(B) FAIR MARKET VALUE.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer

described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the employer-provided child care credit determined under section 45E.''.

(2) Subsection (d) of section 39 of such Code is amended by adding at the end the following new paragraph:

''(10) NO CARRYBACK OF EMPLOYER-PROVIDED CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2002.''.

(3) Subsection (c) of section 196 of such Code is amended by striking ''and'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting '', and'', and by adding at the end the following new paragraph:

''(10) the employer-provided child care credit determined under section 45E(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45E. Employer-provided child care credit.''.

(5) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following:

''(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE V—EXPANDING FAMILY AND MEDICAL LEAVE

Subtitle A—Family Income to Respond to Significant Transitions

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Family Income to Respond to Significant Transitions Insurance Act''.

SEC. 502. PURPOSES.

The purposes of this subtitle are—

(1) to establish a demonstration program that supports the efforts of States and political subdivisions to provide partial or full wage replacement, often referred to as FIRST insurance, to new parents so that the new parents are able to spend time with a new infant or newly adopted child, and to other employees; and

(2) to learn about the most effective mechanisms for providing the wage replacement assistance.

SEC. 503. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor, acting after consultation with the Secretary of Health and Human Services.

(2) SON OR DAUGHTER; STATE.—The terms ''son or daughter'' and ''State'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

SEC. 504. DEMONSTRATION PROJECTS.

(a) GRANTS.—The Secretary shall make grants to eligible entities to pay for the Federal share of the cost of carrying out projects that assist families by providing, through various mechanisms, wage replacement for eligible individuals that are responding to caregiving needs resulting from the birth or adoption of a son or daughter or other family caregiving needs. The Secretary shall make the grants for periods of 5 years.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a State or political subdivision of a State.

(c) USE OF FUNDS.—

(1) IN GENERAL.—An entity that receives a grant under this section may use the funds made available through the grant to provide partial or full wage replacement as described in subsection (a) to eligible individuals—

(A) directly;

(B) through an insurance program, such as a State temporary disability insurance program or the State unemployment compensation benefit program;

(C) through a private disability or other insurance plan, or another mechanism provided by a private employer; or

(D) through another mechanism.

(2) ADMINISTRATIVE COSTS.—No entity may use more than 10 percent of the total funds made available through the grant during the 5-year period of the grant to pay for the administrative costs relating to a project described in subsection (a).

(d) ELIGIBLE INDIVIDUALS.—To be eligible to receive wage replacement under subsection (a), an individual shall—

(1) meet such eligibility criteria as the eligible entity providing the wage replacement may specify in an application described in subsection (e); and

(2) be—

(A) an individual who is taking leave, under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), other Federal, State, or local law, or a private plan, for a reason described in subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1));

(B) at the option of the eligible entity, an individual who—

(i) is taking leave, under that Act, other Federal, State, or local law, or a private plan, for a reason described in subparagraph (C) or (D) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)); or

(ii) leaves employment because the individual has elected to care for a son or daughter under age 1; or

(C) at the option of the eligible entity, an individual with other characteristics specified by the eligible entity in an application described in subsection (e).

(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

(1) a plan for the project to be carried out with the grant;

(2) information demonstrating that the applicant consulted representatives of employers and employees, including labor organizations, in developing the plan;

(3) estimates of the costs and benefits of the project;

(4)(A) information on the number and type of families to be covered by the project, and the extent of such coverage in the area served under the grant; and

(B) information on any criteria or characteristics that the entity will use to determine whether an individual is eligible for wage replacement under subsection (a), as described in paragraphs (1) and (2)(C) of subsection (d);

(5) if the project will expand on State and private systems of wage replacement for eligible individuals, information on the manner in which the project will expand on the systems;

(6) information demonstrating the manner in which the wage replacement assistance provided through the project will assist families in which an individual takes leave as described in subsection (d)(1); and

(7) an assurance that the applicant will participate in efforts to evaluate the effectiveness of the project.

(f) SELECTION CRITERIA.—In selecting entities to receive grants for projects under this section, the Secretary shall—

(1) take into consideration—

(A) the scope of the proposed projects;

(B) the cost-effectiveness, feasibility, and financial soundness of the proposed projects;

(C) the extent to which the proposed projects would expand access to wage replacement in response to family caregiving needs, particularly for low-wage employees, in the area served by the grant; and

(D) the benefits that would be offered to families and children through the proposed projects; and

(2) to the extent feasible, select entities proposing projects that utilize diverse mechanisms, including expansion of State unemployment compensation benefit programs, and establishment or expansion of State temporary disability insurance programs, to provide the wage replacement.

(g) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 50 percent for the first year of the grant period;

(B) 40 percent for the second year of that period;

(C) 30 percent for the third year of that period; and

(D) 20 percent for each subsequent year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be in cash or in kind, fairly evaluated, including plant, equipment, and services and may be provided from State, local, or private sources, or Federal sources other than this subtitle.

(h) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of this subtitle shall be used to supplement and not supplant other Federal, State, and local public funds and private funds expended to provide wage replacement.

(i) EFFECT ON EXISTING RIGHTS.—Nothing in this subtitle shall be construed to supersede, preempt, or otherwise infringe on the provisions of any collective bargaining agreement or any employment benefit program or plan that provides greater rights to employees than the rights established under this subtitle.

SEC. 505. EVALUATIONS AND REPORTS.

(a) AVAILABLE FUNDS.—The Secretary shall use not more than 2 percent of the funds made available under section 5 to carry out this section.

(b) EVALUATIONS.—The Secretary shall, directly or by contract, evaluate the effectiveness of projects carried out with grants made under section 5, including conducting—

(1) research relating to the projects, including research comparing—

(A) the scope of the projects, including the type of insurance or other wage replacement mechanism used, the method of financing used, the eligibility requirements, the level of the wage replacement benefit provided (such as the percentage of salary replaced), and the length of the benefit provided, for the projects;

(B) the utilization of the projects, including the characteristics of individuals who benefit from the projects, particularly low-wage workers, and factors that determine the ability of eligible individuals to obtain wage replacement through the projects; and

(C) the costs of and savings achieved by the projects, including the cost-effectiveness of the projects and their benefits for children and families;

(2) analysis of the overall need for wage replacement; and

(3) analysis of the impact of the projects on the overall availability of wage replacement.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 3 years after the beginning of the grant period for the first grant made under section 5, the Secretary shall prepare and submit to Congress a report that contains information resulting from the evaluations conducted under subsection (b).

(2) SUBSEQUENT REPORTS.—Not later than 4 years after the beginning of that grant period, and annually thereafter, the Secretary shall prepare and submit to Congress a report that contains—

(A) information resulting from the evaluations conducted under subsection (b); and

(B) usage data for the demonstration projects, for the most recent year for which data are available.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.

Subtitle B—Family Friendly Workplaces

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Family and Medical Leave Fairness Act of 2001''.

SEC. 512. COVERAGE OF EMPLOYEES.

Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking ''50'' each place it appears and inserting ''25''.

Subtitle C—Time for Schools

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Time for Schools Act of 2001''.

SEC. 522. GENERAL REQUIREMENTS FOR LEAVE.

(a) ENTITLEMENT TO LEAVE.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(3) ENTITLEMENT TO SCHOOL INVOLVEMENT LEAVE.—

''(A) IN GENERAL.—Subject to section 103(f), an eligible employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an academic activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

''(B) DEFINITIONS.—In this paragraph:

''(i) FAMILY LITERACY PROGRAM.—The term 'family literacy program' means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

''(I) Interactive literacy activities between parents and their sons and daughters.

''(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

''(III) Parent literacy training.

''(IV) An age-appropriate education program for sons and daughters.

''(ii) LITERACY.—The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

''(I) to function on the job, in the family of the individual, and in society;

''(II) to achieve the goals of the individual; and

''(III) to develop the knowledge potential of the individual.

''(iii) SCHOOL.—The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

''(4) LIMITATION.—No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.''.

(b) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: ''Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by inserting before the period the following: '', or for leave provided under subsection (a)(3) for any part of the 24-hour period of such leave under such subsection''.

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

''(3) NOTICE FOR SCHOOL INVOLVEMENT LEAVE.—In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employee shall provide the employer with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.''.

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

''(f) CERTIFICATION FOR SCHOOL INVOLVEMENT LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.''.

SEC. 523. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERVICE EMPLOYEES.

(a) ENTITLEMENT TO LEAVE.—Section 6382(a) of title 5, United States Code, is amended by adding at the end the following:

''(3)(A) Subject to section 6383(f), an employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an academic activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

''(B) In this paragraph:

''(i) The term 'family literacy program' means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable

changes in a family and that integrate all of the following activities:

''(I) Interactive literacy activities between parents and their sons and daughters.

''(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

''(III) Parent literacy training.

''(IV) An age-appropriate education program for sons and daughters.

''(ii) The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

''(I) to function on the job, in the family of the individual, and in society;

''(II) to achieve the goals of the individual; and

''(III) to develop the knowledge potential of the individual.

''(iii) The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

''(4) No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.''.

(b) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: ''Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by inserting before '', except'' the following: '', or for leave provided under subsection (a)(3) any of the employee's accrued or accumulated annual leave under subchapter I for any part of the 24-hour period of such leave under such subsection''.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

''(3) In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employee shall provide the employing agency with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.''.

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

''(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.''.

SEC. 524. EFFECTIVE DATE.

This subtitle takes effect 120 days after the date of enactment of this Act.

Subtitle D—Employment Protection for Battered Women

SEC. 531. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR NON-FEDERAL EMPLOYEES.

(a) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

''(14) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term 'addressing domestic violence and its effects' means—

''(A) being unable to attend or perform work due to an incident of domestic violence;

''(B) seeking medical attention for or recovering from injuries caused by domestic violence;

''(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding, related to domestic violence;

''(D) obtaining services from a domestic violence shelter or program or rape crisis center as a result of domestic violence;

''(E) obtaining psychological counseling related to experiences of domestic violence;

''(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

''(G) participating in any other activity necessitated by domestic violence that must be undertaken during the hours of employment involved.

''(15) DOMESTIC VIOLENCE.—The term 'domestic violence' means domestic violence, and dating violence, as such terms are defined in section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh–4).''.

(b) LEAVE REQUIREMENT.—Section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612) is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

''(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.'';

(2) in subsection (b), by adding at the end the following:

''(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an eligible employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.''; and

(3) in subsection (d)(2)(B), by striking ''(C) or (D)'' and inserting ''(C), (D), (E), or (F)''.

(c) CERTIFICATION.—Section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613), as amended by section 522(e), is further amended—

(1) in the title of the section, by inserting before the period the following: ''**; CONFIDENTIALITY**''; and

(2) by adding at the end the following:

''(g) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 102(a)(1), the employer of an employee may require the employee to provide—

''(1) a written statement describing the domestic violence and its effects;

''(2) documentation of the domestic violence involved, such as a police or court record, or documentation from a shelter worker, an employee of a domestic violence program, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic violence and its effects; or

''(3) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or physical evidence of domestic violence, such as a photograph, torn or bloody clothing, or any other damaged property.

''(h) CONFIDENTIALITY.—All evidence provided to the employer under subsection (g) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

''(1) protecting the safety of the employee or a family member or co-worker of the employee; or

''(2) assisting in documenting domestic violence for a court or agency.''.

SEC. 532. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR FEDERAL EMPLOYEES.

(a) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(1) at the end of paragraph (5), by striking ''and'';

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(7) the term 'addressing domestic violence and its effects' has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611); and

''(8) the term 'domestic violence' means domestic violence, and dating violence, as such terms are defined in section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh–4).''.

(b) LEAVE REQUIREMENT.—Section 6382 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

''(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.'';

(2) in subsection (b), by adding at the end the following:

''(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.''; and

(3) in subsection (d), by striking ''(C), or (D)'' and inserting ''(C), (D), (E), or (F)''.

(c) CERTIFICATION.—Section 6383 of title 5, United States Code, as amended by section 523(e), is further amended—

(1) in the title of the section, by adding at the end the following: ''**; CONFIDENTIALITY**''; and

(2) by adding at the end the following:

''(g) In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employing agency of an employee may require the employee to provide—

''(1) a written statement describing the domestic violence and its effects;

''(2) documentation of the domestic violence involved, such as a police or court record, or documentation from a shelter worker, an employee of a domestic violence program, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic violence and its effects; or

''(3) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence,

or physical evidence of domestic violence, such as a photograph, torn or bloody clothing, or other damaged property.

''(h) All evidence provided to the employing agency under subsection (g) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employing agency, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

''(1) protecting the safety of the employee or a family member or co-worker of the employee; or

''(2) assisting in documenting domestic violence for a court or agency.''.

SEC. 533. EXISTING LEAVE USABLE FOR DOMESTIC VIOLENCE.

(a) DEFINITIONS.—In this section:

(1) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term ''addressing domestic violence and its effects'' has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611), as amended in section 531(a).

(2) EMPLOYEE.—The term ''employee'' means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(3) EMPLOYER.—The term ''employer''—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs individuals, if such person is also subject to the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or to any provision of a State or local law, collective bargaining agreement, or employment benefits program or plan, addressing paid or unpaid leave from employment (including family, medical, sick, annual, personal, or similar leave); and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to any employee, and includes a public agency, who is subject to a law, agreement, program, or plan described in subparagraph (A), but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(4) EMPLOYMENT BENEFITS.—The term ''employment benefits'' has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) PARENT; SON OR DAUGHTER.—The terms ''parent'' and ''son or daughter'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(6) PUBLIC AGENCY.—The term ''public agency'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(b) USE OF EXISTING LEAVE.—An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, shall be permitted to use such leave for the purpose of addressing domestic violence and its effects, or for the purpose of caring for a son or daughter or parent of the employee, if such son or daughter or parent is addressing domestic violence and its effects.

(c) CERTIFICATION.—In determining whether an employee qualifies to use leave as described in subsection (b), an employer may require a written statement, documentation of domestic violence, or corroborating evidence consistent with section 103(g) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(g)), as amended by section 531(c).

(d) CONFIDENTIALITY.—All evidence provided to the employer under subsection (c) of domestic violence experienced by an employee or the son or daughter or parent of the employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son or daughter or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

(1) protecting the safety of the employee or a family member or co-worker of the employee; or

(2) assisting in documenting domestic violence for a court or agency.

(e) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against an individual for opposing any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(A) has filed any charge, or had instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(f) ENFORCEMENT.—

(1) PUBLIC ENFORCEMENT.—The Secretary of Labor shall have the powers set forth in subsections (b), (c), (d), and (e) of section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) for the purpose of public agency enforcement of any alleged violation of subsection (e) against any employer.

(2) PRIVATE ENFORCEMENT.—The remedies and procedures set forth in section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)) shall be the remedies and procedures pursuant to which an employee may initiate a legal action against an employer for alleged violations of subsection (e).

(3) REFERENCES.—For purposes of paragraph (1) and (2), references in section 107 of the Family and Medical Leave Act of 1993 to section 105 of such Act shall be considered to be references to subsection (e).

(4) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer to an employee for harm suffered relating to the employee's experience of domestic violence pursuant to any other Federal or State law, including a law providing for a legal remedy.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. LEAHY, Mr. BIDEN, Mr. FEINGOLD, Mr. SCHUMER, Mr. DURBIN, Mr. AKAKA, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. EDWARDS, Mr. HARKIN, Mr. LEVIN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 19. A bill to protect the civil rights of all Americans, and for other purposes; to the Committee on the Judiciary.

PROTECTING CIVIL RIGHTS FOR ALL AMERICANS ACT

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

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

S. 19

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 ''Protecting Civil Rights for All Americans Act''.

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

TITLE I—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2001

SEC. 101. SHORT TITLE.

This title may be cited as the ''Local Law Enforcement Enhancement Act of 2001''.

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the victim's family and friends, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 103. DEFINITION OF HATE CRIME.

In this title, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 104. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the victim's race, color, religion, national origin, gender, sexual orientation, or disability or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes. In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(2) APPLICATION.—

(A) IN GENERAL.—Each State desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(5) REPORT.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2002 and 2003.

SEC. 105. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 106. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2002, 2003, and 2004 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code (as added by this title).

SEC. 107. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A): the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

SEC. 108. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 109. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. 110. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—TRAFFIC STOPS STATISTICS STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Traffic Stops Statistics Study Act of 2001''.

SEC. 202. ATTORNEY GENERAL TO CONDUCT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Attorney General shall conduct a nationwide study of stops for traffic violations by law enforcement officers.

(2) INITIAL ANALYSIS.—The Attorney General shall perform an initial analysis of existing data, including complaints alleging and other information concerning traffic stops motivated by race and other bias.

(3) DATA COLLECTION.—After completion of the initial analysis under paragraph (2), the Attorney General shall then gather the following data on traffic stops from a nationwide sample of jurisdictions, including jurisdictions identified in the initial analysis:

(A) The traffic infraction alleged to have been committed that led to the stop.

(B) Identifying characteristics of the driver stopped, including the race, gender, ethnicity, and approximate age of the driver.

(C) Whether immigration status was questioned, immigration documents were requested, or an inquiry was made to the Immigration and Naturalization Service with regard to any person in the vehicle.

(D) The number of individuals in the stopped vehicle.

(E) Whether a search was instituted as a result of the stop and whether consent was requested for the search.

(F) Any alleged criminal behavior by the driver that justified the search.

(G) Any items seized, including contraband or money.

(H) Whether any warning or citation was issued as a result of the stop.

(I) Whether an arrest was made as a result of either the stop or the search and the justification for the arrest.

(J) The duration of the stop.

(b) REPORTING.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall report the results of its initial analysis to Congress, and make such report available to the public, and identify the jurisdictions for which the study is to be conducted. Not later than 2 years after the date of the enactment of this Act, the Attorney General shall report the results of the data collected under this title to Congress, a copy of which shall also be published in the Federal Register.

SEC. 203. GRANT PROGRAM.

In order to complete the study described in section 202, the Attorney General may provide grants to law enforcement agencies to collect and submit the data described in section 202 to the appropriate agency as designated by the Attorney General.

SEC. 204. LIMITATION ON USE OF DATA.

Information released pursuant to section 202 shall not reveal the identity of any individual who is stopped or any law enforcement officer involved in a traffic stop.

SEC. 205. DEFINITIONS.

In this title:

(1) LAW ENFORCEMENT AGENCY.—The term ''law enforcement agency'' means an agency of a State or political subdivision of a State, authorized by law or by a Federal, State, or local government agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws, or a federally recognized Indian tribe.

(2) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE III—SUPPORTING INDIGENT REPRESENTATION

SEC. 301. FINDINGS.

Congress finds the following:

(1) There is a need to encourage equal access for individuals to the system of justice in the United States.

(2) There is a need to encourage the provision of high quality legal assistance for persons who would otherwise be unable to afford legal counsel.

(3) Legal Services Corporation programs serve clients with cases concerning housing, family law, income maintenance, consumer issues, and employment.

(4) For years the Federal resources available to the Legal Services Corporation have eroded. Nearly half of all people who applied

for assistance from local Legal Services Corporation programs have been turned away in recent years.

(5) Congress must adequately fund Legal Services Corporation programs to preserve the strength of the programs.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended to read as follows:

''(a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $400,000,000 for fiscal year 2002.''.

TITLE IV—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

SEC. 401. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF GENETIC SERVICES OR PREDICTIVE GENETIC INFORMATION.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period ''(or information about a request for or the receipt of genetic services by such individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subpart B of Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 702(b)(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended to read as follows:

''(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 714; or''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 702, section 711 and section 714''.

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (f) and (g), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(e) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(4) the individual's employer or any plan sponsor; or

''(5) any other person the Secretary may specify in regulations.

''(f) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

''(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

''(g) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim;

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(h) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (d) (regarding collection) and (e) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(i) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.''.

(c) ENFORCEMENT.—Section 502 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 702, or section 714, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(o) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (n), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(d) PREEMPTION.—Section 731 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by inserting ''or (e)'' after ''subsection (b)''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt

of genetic services by an individual or a family member of such individual) than does this part; or

''(2) prohibits discrimination on the basis of genetic information than does this part.''.

(e) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

''(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(f) AMENDMENT CONCERNING SUPPLEMENTAL EXCEPTED BENEFITS.—Section 732(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(c)(3)) is amended by inserting '', other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual), (c), (d), (e), (f) and (g) of section 702 and section 714,'' after ''The requirements of this part''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after October 1, 2002.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 402. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(or information about a request for or the receipt of genetic services by an individual or a family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(i) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).''.

(ii) CONFORMING AMENDMENTS.—

(I) Section 2702(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–1(b)(2)(A)) is amended to read as follows:

''(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 2707; or''.

(II) Section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)) is amended by inserting ''(other than subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707)'' after ''subparts 1 and 3''.

(2) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (f) and (g), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(e) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(4) the individual's employer or any plan sponsor; or

''(5) any other person the Secretary may specify in regulations.

''(f) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

''(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

''(g) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim;

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(h) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (d) (regarding collection) and (e)

shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(i) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.''.

(3) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following new paragraphs:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counselling.

''(18) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(19) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

''(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH INSURANCE DISCRIMINATION AGAINST INDIVIDUALS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) IN ELIGIBILITY TO ENROLL.—A health insurance issuer offering health insurance coverage in the individual market shall not establish rules for eligibility to enroll in individual health insurance coverage that are based on predictive genetic information concerning the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(b) IN PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates on the basis of predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''SEC. 2754. LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

''(a) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(b) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (d) and (e), a health insurance issuer offering health insurance coverage in the individual market shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(c) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A health insurance issuer offering health insurance coverage in the individual market shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(4) the individual's employer or any plan sponsor; or

''(5) any other person the Secretary may specify in regulations.

''(d) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a health insurance issuer offering health insurance coverage in the individual market may request that the individual provide the plan or issuer with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

''(B) require that a health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

''(e) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a health insurance issuer offering health insurance coverage in the individual market may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim;

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(f) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (c) (regarding collection) and (d) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(g) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.''.

(c) ENFORCEMENT.—

(1) GROUP PLANS.—Section 2722 of the Public Health Service Act (42 U.S.C. 300gg–22) is amended by adding at the end the following:

''(c) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707 the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(d) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be

paid only into the general fund of the Treasury.''.

(2) INDIVIDUAL PLANS.—Section 2761 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended by adding at the end the following:

''(c) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any health insurance issuer offering health insurance coverage in the individual market (including any other person acting for or on behalf of such issuer) alleging a violation of sections 2753 and 2754 the court in which the action is commenced may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(d) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(d) PREEMPTION.—

(1) GROUP MARKET.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg–23) is amended—

(A) in subsection (a)(1), by inserting ''or (e)'' after ''subsection (b)''; and

(B) by adding at the end the following:

''(e) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual); or

''(2) prohibits discrimination on the basis of genetic information than does this part.''.

(2) INDIVIDUAL MARKET.—Section 2762 of the Public Health Service Act (42 U.S.C. 300gg–46) is amended—

(A) in subsection (a), by inserting ''and except as provided in subsection (c),'' after ''Subject to subsection (b),''; and

(B) by adding at the end the following:

''(c) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to individual health insurance coverage offered by a health insurance issuer, the provisions of this part (or part C insofar as it applies to this part) relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law (as defined in section 2723(d)) which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services of an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) than does this part (or part C insofar as it applies to this part); or

''(2) prohibits discrimination on the basis of genetic information than does this part (or part C insofar as it applies to this part).''.

(e) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (c), (d), (e), (f), and (g) of section 2702 and section 2707, and the provisions of section 2702(b) to the extent that they apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(f) AMENDMENT CONCERNING SUPPLEMENTAL EXCEPTED BENEFITS.—

(1) GROUP MARKET.—Section 2721(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–23(d)(3)) is amended by inserting '', other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual)), (c), (d), (e), (f) and (g) of section 2702 and section 2707,'' after ''The requirements of this part''.

(2) INDIVIDUAL MARKET.—Section 2763(b) of the Public Health Service Act (42 U.S.C. 300gg–47(b)) is amended—

(A) by striking ''The requirements of this part'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this part''; and

(B) by adding at the end the following:

''(2) LIMITATION.—The requirements of sections 2753 and 2754 shall apply to excepted benefits described in section 2791(c)(4).''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to—

(A) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning; and

(B) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market, after;

October 1, 2002.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 403. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF GENETIC SERVICES OR PREDICTIVE GENETIC INFORMATION.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 (relating to eligibility to enroll) is amended by inserting before the period ''(or information about a request for or the receipt of genetic services by such individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subchapter B of chapter 100 of such Code (relating to other requirements) is amended by adding at the end the following:

''SEC. 9813. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 9802(b)(2)(A) of such Code is amended to read as follows:

''(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 9813; or''.

(ii) Section 9831(a) of such Code (relating to exception for certain plans) is amended by inserting ''(other than subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request for or receipt of genetic services by an individual or family member of such individual), (d) (e), (f), (g) or (h) of section 9802 or section 9813)'' after ''chapter''.

(iii) The table of sections for subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

''Sec. 9813. Prohibiting discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 (relating to prohibiting discrimination against individual participants and beneficiaries based on health status) is amended by adding at the end the following new subsections:

''(d) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(e) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (g) and (h), a group health plan shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(f) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan,

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws,

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information,

''(4) the individual's employer or any plan sponsor, or

''(5) any other person the Secretary may specify in regulations.

''(g) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan may request that the individual provide the plan with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a group health plan to request (or require) the results of the services referred to in such paragraph, or

''(B) require that a group health plan make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan in accordance with such paragraph.

''(h) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim,

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information, and

''(3) is used only by an individual within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(i) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (e) (regarding collection) and (f) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(j) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), or (o) of section 414.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.

''(k) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan (including any third party administrator or other person acting for or on behalf of such plan) alleging a violation of subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (d), (e), (f), (g) or (h) or section 9813, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(l) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (k), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraphs:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual,

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual, or

''(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(8) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(10) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means—

''(i) information about an individual's genetic tests,

''(ii) information about genetic tests of family members of the individual, or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual,

''(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests, or

''(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after October 1, 2002.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 404. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of predictive genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'predictive genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after October 1, 2002.

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by an issuer of a medicare supplemental policy, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(2) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraphs (4) and (5), an issuer of a medicare supplemental policy shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(3) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An issuer of a medicare supplemental policy shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(A) any entity that is a member of the same controlled group as such issuer;

''(B) any issuer of a medicare supplemental policy, group health plan or health insurance issuer, or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(C) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(D) the individual's employer or any plan sponsor; or

''(E) any other person the Secretary may specify in regulations.

''(4) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(A) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, an issuer of a medicare supplemental policy may request that the individual provide the issuer with evidence that such services were performed.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to—

''(i) permit an issuer to request (or require) the results of the services referred to in such subparagraph; or

''(ii) require that an issuer make payment for services described in such subparagraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the issuer in accordance with such subparagraph.

''(5) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, an issuer of a medicare supplemental policy may request that an individual provide predictive genetic information so long as such information—

''(A) is used solely for the payment of a claim;

''(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(C) is used only by an individual (or individuals) within such issuer who needs access to such information for purposes of payment of a claim.

''(6) RULES OF CONSTRUCTION.—

''(A) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of paragraphs (2) (regarding collection) and (3) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(B) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(7) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this subsection against any administrator of a medicare supplemental policy (including any third party administrator or other person acting for or on behalf of such policy) alleging a violation of this subsection, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(8) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions of this subsection, except that any such relief awarded shall be paid only into the general fund of the Treasury.

''(9) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—This subsection (relating to genetic information or information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(A) protects the confidentiality of genetic information (including information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) than does this subsection; or

''(B) prohibits discrimination on the basis of genetic information than does this subsection.

''(10) DEFINITIONS.—In this subsection:

''(A) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(B) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(C) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(D) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(E) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(F) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.

''(G) PREDICTIVE GENETIC INFORMATION.—

''(i) IN GENERAL.—The term 'predictive genetic information' means—

''(I) information about an individual's genetic tests;

''(II) information about genetic tests of family members of the individual; or

''(III) information about the occurrence of a disease or disorder in family members.

''(ii) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(I) information about the sex or age of the individual;

''(II) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

''(III) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning after October 1, 2002.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2002, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2002.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

SEC. 411. DEFINITIONS.

In this subtitle:

(1) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—The terms ''employee'', ''employer'', ''employment agency'', and ''labor organization'' have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e), except that the terms ''employee'' and ''employer'' shall also include

the meanings given such terms in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The terms ''employee'' and ''member'' include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

(3) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(4) GENETIC SERVICES.—The term ''genetic services'' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) GENETIC TEST.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—The term ''predictive genetic information'' means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term ''predictive genetic information'' shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

SEC. 412. EMPLOYER PRACTICES.

(a) IN GENERAL.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual;

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual, or information about a request for or the receipt of genetic services by such individual or family member of such individual; or

(3) to request, require, collect or purchase predictive genetic information with respect to an individual or a family member of the individual except—

(A) where used for genetic monitoring of biological effects of toxic substances in the workplace, but only if—

(i) the employee has provided prior, knowing, voluntary, and written authorization;

(ii) the employee is informed of individual monitoring results;

(iii) the monitoring conforms to any genetic monitoring regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.); and

(iv) the employer, excluding any licensed health care professional that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(B) where genetic services are offered by the employer and the employee provides prior, knowing, voluntary, and written authorization, and only the employee or family member of such employee receives the results of such services.

(b) LIMITATION.—In the case of predictive genetic information to which subparagraph (A) or (B) of subsection (a)(3) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a).

SEC. 413. EMPLOYMENT AGENCY PRACTICES.

It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 414. LABOR ORGANIZATION PRACTICES.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 415. TRAINING PROGRAMS.

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual), in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 416. MAINTENANCE AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

(a) MAINTENANCE OF PREDICTIVE GENETIC INFORMATION.—If an employer possesses predictive genetic information about an employee (or information about a request for or receipt of genetic services by such employee or family member of such employee), such information shall be treated or maintained as part of the employee's confidential medical records.

(b) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An employer shall not disclose predictive genetic information (or information about a request for or receipt of genetic services by such employee or family member of such employee) except—

(1) to the employee who is the subject of the information at the request of the employee;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) under legal compulsion of a Federal court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order unless the court order also imposes confidentiality requirements; and

(4) to government officials who are investigating compliance with this Act if the information is relevant to the investigation.

SEC. 417. CIVIL ACTION.

(a) IN GENERAL.—One or more employees, members of a labor organization, or participants in training programs may bring an action in a Federal or State court of competent jurisdiction against an employer, employment agency, labor organization, or joint

labor-management committee or training program who commits a violation of this subtitle.

(b) ENFORCEMENT BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, 710, and 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, 2000e–9, and 2000e–16) shall be the powers, remedies, and procedures provided to the Equal Employment Opportunity Commission to enforce this subtitle. The Commission may promulgate regulations to implement these powers, remedies, and procedures.

(c) REMEDY.—A Federal or State court may award any appropriate legal or equitable relief under this section. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of experts.

SEC. 418. CONSTRUCTION.

Nothing in this subtitle shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act;

(2) limit the rights or protections of an individual under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights accorded under this Act;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains; or

(5) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 419. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 420. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 2002.

TITLE V—EMPLOYMENT NONDISCRIMINATION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Employment Non-Discrimination Act of 2001''.

SEC. 502. PURPOSES.

The purposes of this title are—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 503. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, or joint labor-management committee.

(3) EMPLOYER.—The term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 401 of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(4) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—Except as provided in section 510(a)(1), the term ''employment or an employment opportunity'' includes job application procedures, referral for employment, hiring, advancement, discharge, compensation, job training, a term, condition, or privilege of union membership, or any other term, condition, or privilege of employment, but does not include the service of a volunteer for which the volunteer receives no compensation.

(6) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) RELIGIOUS ORGANIZATION.—The term ''religious organization'' means—

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if—

(i) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(9) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

(10) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

SEC. 504. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's sexual orientation; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of such individual's sexual orientation.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the sexual orientation of the individual or to classify or refer for employment any individual on the basis of the sexual orientation of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the sexual orientation of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee or as an applicant for employment, because of such individual's sexual orientation; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the sexual orientation of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the sexual orientation of a person with whom the individual associates or has associated.

(f) DISPARATE IMPACT.—Notwithstanding any other provision of this title, the fact that an employment practice has a disparate impact, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of sexual orientation does not establish a prima facie violation of this title.

SEC. 505. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this title or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual's having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this title.

SEC. 506. BENEFITS.

This title does not apply to the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

SEC. 507. COLLECTION OF STATISTICS PROHIBITED.

The Commission shall not collect statistics on sexual orientation from covered entities, or compel the collection of such statistics by covered entities.

SEC. 508. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) ORDERS AND CONSENT DECREES.—Notwithstanding any other provision of this title, an order or consent decree entered for a violation of this title may not include a quota, or preferential treatment to an individual, based on sexual orientation.

SEC. 509. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall not apply to a religious organization.

(b) UNRELATED BUSINESS TAXABLE INCOME.—This title shall apply to employment or an employment opportunity for an employment position of a covered entity that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 510. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—In this title, the term ''employment or an employment opportunity'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1), the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This title does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

SEC. 511. CONSTRUCTION.

Nothing in this title shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

SEC. 512. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this title in the case of a claim alleged by an individual for a violation of this title—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title;

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this title are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this title, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) PROHIBITION OF AFFIRMATIVE ACTION—Notwithstanding any other provision of this section, affirmative action for a violation of this title may not be imposed. Nothing in this section shall prevent the granting of relief to any individual who suffers a violation of such individual's rights provided in this title.

SEC. 513. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in a Federal court of competent jurisdiction for a violation of this title.

(b) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this title, in an action or administrative proceeding against the United States or a State for a violation of this title, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

SEC. 514. ATTORNEYS' FEES.

Notwithstanding any other provision of this title, in an action or administrative proceeding for a violation of this title, an entity described in section 512(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs. The Commission and the United States shall be liable for the costs to the same extent as a private person.

SEC. 515. POSTING NOTICES.

A covered entity who is required to post notices described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10) shall post notices for employees, applicants for employment, and members, to whom the provisions specified in section 512(b) apply, that describe the applicable provisions of this title in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964.

SEC. 516. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this title.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this title with respect to employees of the Library of Congress.

(c) BOARD.—The Board referred to in section 512(a)(3) shall have authority to issue regulations to carry out this title, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this title with respect to covered employees, as defined in section 401 of title 3, United States Code.

SEC. 517. RELATIONSHIP TO OTHER LAWS.

This title shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 518. SEVERABILITY.

If any provision of this title, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

SEC. 519. EFFECTIVE DATE.

This title shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

TITLE VI—PROMOTING CIVIL RIGHTS ENFORCEMENT

SEC. 601. ESTABLISHMENT OF THE NATIONAL TASK FORCE ON VIOLENCE AGAINST HEALTH CARE PROVIDERS.

(a) ESTABLISHMENT.—There is established in the Department of Justice a National Task Force on Violence Against Health Care Providers (referred to in this section as the ''task force'').

(b) COMPOSITION.—The task force shall be composed on one or more individuals from—

(1) the Department of Justice;

(2) the Federal Bureau of Investigation;

(3) the United States Marshals Service;

(4) the Bureau of Alcohol, Tobacco, and Firearms; and

(5) the United States Postal Inspection Service.

(c) CHAIRMAN.—The task force shall be chaired by the Assistant Attorney General for Civil Rights.

(d) POWERS AND DUTIES.—The task force shall—

(1) coordinate the national investigation and prosecution of incidents of violence and other unlawful acts directed against reproductive health care providers, with a focus on connections that may exist between individuals involved in such unlawful activity;

(2) serve as a clearinghouse of information, for use by investigators and prosecutors, relating to acts of violence against reproductive health care providers;

(3) make available security information and recommendations to enhance the safety and protection of reproductive health care providers;

(4) provide training to Federal, State, and local law enforcement on issues relating to clinic violence; and

(5) support Federal civil investigation and litigation of violence and other unlawful acts directed at reproductive health care providers.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this section.

SEC. 602. INCREASE IN FUNDING FOR ENFORCING CIVIL RIGHTS LAWS.

(a) INCREASE IN FUNDING.—There are authorized to be appropriated for fiscal year 2002 for each of the agencies described in subsection (b) an amount equal to 105 percent of the amount appropriated for fiscal year 2001.

(b) AGENCIES.—The agencies referred to in subsection (a) (with the increase and total amount authorized for fiscal year 2002) are as follows:

(1) Equal Employment Opportunity Commission (an increase of $15,200,000 from fiscal year 2001 to $319,200,000 for fiscal year 2002).

(2) Department of Justice: Civil Rights Division (an increase of $4,600,000 from fiscal year 2001 to $96,600,000 for fiscal year 2002).

(3) Education: Office of Civil Rights (an increase of $3,800,000 from fiscal year 2001 to $79,800,000 for fiscal year 2002).

(4) Department of Labor: Office of Federal Contract Compliance (an increase of $3,800,000 from fiscal year 2001 to $79,800,000 for fiscal year 2002).

(5) Department of Labor: Civil Rights Center (an increase of $300,000 from fiscal year 2001 to $6,300,000 for fiscal year 2002).

(6) Housing and Urban Development: Fair Housing Activities Grants (an increase of $2,300,000 from fiscal year 2001 to $48,300,000 for fiscal year 2002).

(7) Health and Human Services: Office for Civil Rights (an increase of $1,400,000 from fiscal year 2001 to $29,400,000 for fiscal year 2002).

(8) Agriculture: Civil Rights Programs (an increase of $1,000,000 from fiscal year 2001 to $21,000,000 for fiscal year 2002).

(9) Transportation: Office of Civil Rights (an increase of $400,000 from fiscal year 2001 to $8,400,000 for fiscal year 2002).

(10) Environmental Protection Agency: Office of Civil Rights (an increase of $250,000 from fiscal year 2001 to $5,250,000 for fiscal year 2002).

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, and Mr. AKAKA):

S. 20. A bill to enhance fair and open competition in the production and sale of agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SECURING A FUTURE FOR INDEPENDENT AGRICULTURE ACT OF 2001

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

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

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 ''Securing a Future for Independent Agriculture Act of 2001''.

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

TITLE I—PROTECTION FROM ANTICOMPETITIVE PRACTICES; CONTRACT FAIRNESS

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

In this title:

(1) ACTIVE CONTRACTOR.—The term ''active contractor'' means a person (including a processor) that (in accordance with a production contract) owns, or will own, an agricultural commodity that is produced by a contract producer.

(2) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(3) AGRICULTURAL CONTRACT.—The term ''agricultural contract'' means a marketing contract or a production contract.

(4) AGRICULTURAL COOPERATIVE.—The term ''agricultural cooperative'' means an association of persons engaged in the production, marketing, or processing of an agricultural commodity that meets the requirements of the Act entitled ''An Act to authorize association of producers of agricultural products'' (commonly known as the ''Capper-Volstead Act'') (7 U.S.C. 291 et seq).

(5) BROKER.—The term ''broker'' means any person engaged in the business of negotiating sales and purchases of any agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, except that no person shall be considered a broker if the person's sales of such agricultural commodities are not in excess of $1,000,000 per year.

(6) CAPITAL INVESTMENT.—The term ''capital investment'' means an investment in—

(A) a structure, such as a building or manure storage structure; or

(B) machinery or equipment associated with producing an agricultural commodity that has a useful life of more than 1 year.

(7) COMMISSION MERCHANT.—The term ''commission merchant'' means any person engaged in the business of receiving in interstate or foreign commerce any agricultural commodity for sale, on commission, or for or on behalf of another person, except that no person shall be considered a commission merchant if the person's sales of such agricultural commodities are not in excess of $1,000,000 per year.

(8) CONTRACT INPUT.—

(A) IN GENERAL.—The term ''contract input'' means an agricultural commodity or an organic or synthetic substance or compound that is used to produce an agricultural commodity.

(B) INCLUSIONS.—The term ''contract input'' includes livestock, plants, agricultural seeds, semen or eggs for breeding stock, fertilizers, soil conditioners, and pesticides.

(9) CONTRACT LIVESTOCK FACILITY.—The term ''contract livestock facility'' means a facility in which livestock or a product of live livestock is produced under a production contract by a contract producer.

(10) CONTRACT PRODUCER.—The term ''contract producer'' means a producer that produces an agricultural commodity under a production contract.

(11) CONTRACTOR.—The term ''contractor'' means a person that is an active contractor or a passive contractor.

(12) COVERED PERSON.—The term ''covered person'' means a dealer, processor, commission merchant, and broker.

(13) CROP.—The term ''crop'' means an agricultural commodity produced from a plant.

(14) DEALER.—The term ''dealer'' means—

(A) any person (except an agricultural cooperative) engaged in the business of buying, selling, or marketing agricultural commodities in wholesale or jobbing quantities, as determined by the Secretary, in interstate or foreign commerce, except that—

(i) no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person's own production if the sales or marketing of such agricultural commodities do not exceed $10,000,000 per year; and

(ii) no person shall be considered a dealer who buys, sells, or markets less than $1,000,000 per year of such agricultural commodities; and

(B) an agricultural cooperative that sells or markets agricultural commodities of its members' own production if the agricultural cooperative sells or markets more than $1,000,000 of its members' production per year of such agricultural commodities.

(15) INVESTMENT REQUIREMENT.—The term ''investment requirement'' means a provision in a production contract that requires a contract producer to make a capital investment associated with producing an agricultural commodity subject to the production contract.

(16) LIVESTOCK.—The term ''livestock'' means beef cattle, dairy cattle, swine, sheep, or poultry.

(17) MARKETING CONTRACT.—The term ''marketing contract'' means a written agreement between a processor and a producer for the purchase of an agricultural commodity grown or raised by the producer.

(18) PASSIVE CONTRACTOR.—The term ''passive contractor'' means a person that—

(A) provides a management service to a contract producer; and

(B) does not own an agricultural commodity that is produced by the contract producer under a production contract.

(19) PROCESSOR.—

(A) IN GENERAL.—The term ''processor'' means—

(i) any person (other than an agricultural cooperative) engaged in the business of handling, preparing, or manufacturing (including slaughtering) an agricultural commodity or the products of an agricultural commodity for sale or marketing in interstate or foreign commerce for human consumption; and

(ii) an agricultural cooperative that handles, prepares, or manufactures (including slaughtering) agricultural commodities of its members' own production.

(B) EXCLUSIONS.—The term ''processor'' does not include—

(i) any person (other than an agricultural cooperative) with respect to the handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity that was produced by the person if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $10,000,000 per year; and

(ii) any agricultural cooperative that handles, prepares, or manufactures (including slaughtering) an agricultural commodity if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $1,000,000 per year.

(20) PRODUCE.—The term ''produce'' means—

(A) to provide feed or services relating to the care and feeding of livestock, including milking dairy cattle and storing raw milk; and

(B) to provide for planting, raising, harvesting, and storing a crop, including preparing soil for planting and applying a fertilizer, soil conditioner, or pesticide to a crop.

(21) PRODUCER.—

(A) IN GENERAL.—The term ''producer'' means a person that produces an agricultural commodity.

(B) EXCLUSIONS.—The term ''producer'' does not include—

(i) a commercial fertilizer or pesticide applicator;

(ii) a feed supplier; or

(iii) a veterinarian.

(22) PRODUCTION CONTRACT.—

(A) IN GENERAL.—The term ''production contract'' means a written agreement that provides for—

(i) the production of an agricultural commodity by a contract producer; or

(ii) the provision of a management service relating to the production of an agricultural commodity by a contract producer.

(B) INCLUSIONS.—The term ''production contract'' includes—

(i) a contract between an active contractor and a contract producer for the production of an agricultural commodity;

(ii) a contract between an active contractor and a passive contractor for the provision of a management service to a contract producer in the production of an agricultural commodity; and

(iii) a contract between a passive contractor and a contract producer if—

(I) the production contract provides for a management service furnished by the passive contractor to the contract producer in the production of an agricultural commodity; and

(II) the passive contractor has a contractual relationship with the active contractor involving the production of the agricultural commodity.

(23) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

Subtitle B—Protection from Anticompetitive Practices

SEC. 111. PROHIBITIONS AGAINST UNFAIR PRACTICES IN TRANSACTIONS INVOLVING AGRICULTURAL COMMODITIES.

(a) PROHIBITIONS.—It shall be unlawful in, or in connection with, any transaction in interstate or foreign commerce for any covered person or contractor—

(1) to engage in or use any unfair, unreasonable, unjustly discriminatory, or deceptive practice or device in the marketing, receiving, purchasing, sale, or contracting for the production of any agricultural commodity;

(2) to make or give any undue or unreasonable preference or advantage to any particular person or locality or subject any particular person or locality to any undue or unreasonable disadvantage in connection with any transaction involving any agricultural commodity;

(3) to make any false or misleading statement in connection with any transaction involving any agricultural commodity that is purchased or received in interstate or foreign commerce, or involving any production contract, or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction or production contract;

(4) to retaliate against or disadvantage, or to conspire to retaliate against or disadvantage, any person because of statements or information lawfully provided by the person to any person (including to the Secretary or to a law enforcement agency) regarding alleged improper actions or violations of law by the covered person or contractor (unless the statements or information are determined to be libelous or slanderous under applicable State law) involving any agricultural commodity;

(5) to include as part of any new or renewed agreement or contract a right of first refusal, or to make any sale or transaction contingent on the granting of a right of first refusal, involving any agricultural commodity, before the date that is 180 days after the study required under section 115 is complete; or

(6) to offer different prices contemporaneously for agricultural commodities of like grade and quality (except agricultural commodities covered by the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)), unless—

(A) the agricultural commodity is purchased in a public market through a competitive bidding process or under similar conditions that provide opportunities for multiple competitors to seek to acquire the agricultural commodity;

(B) the premium or discount reflects the actual cost of acquiring an agricultural commodity prior to processing; or

(C) the Secretary has determined that such types of offers do not have a discriminatory impact against small volume producers of agricultural commodities.

(b) VIOLATIONS.—

(1) COMPLAINTS.—Whenever the Secretary has reason to believe that any covered person or contractor has violated subsection (a), the Secretary shall cause a complaint in writing to be served on the covered person or contractor, stating the charges in that respect, and requiring the covered person or contractor to attend and testify at a hearing to be held not earlier than 30 days after the service of the complaint.

(2) HEARING.—

(A) IN GENERAL.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary, for the determination of the existence of any violation of this section.

(B) RIGHT TO HEARING.—A covered person or contractor may request a hearing if the covered person or contractor is subject to penalty for unfair conduct under this section.

(C) RESPONDENTS RIGHTS.—During a hearing, the covered person or contractor shall be given, pursuant to regulations promulgated by the Secretary, the opportunity—

(i) to be informed of the evidence against the covered person or contractor;

(ii) to cross-examine witnesses; and

(iii) to present evidence.

(D) HEARING LIMITATION.—The issues of any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which the hearing was held or requested.

(3) REPORT OF FINDING AND PENALTIES.—

(A) IN GENERAL.—If, after a hearing, the Secretary finds that the covered person or contractor has violated subsection (a), the Secretary shall make a report in writing that states the findings of fact and includes an order requiring the covered person or contractor to cease and desist from continuing the violation.

(B) CIVIL PENALTY.—The Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation of subsection (a).

(4) TEMPORARY INJUNCTION AND FINALITY AND APPEALABILITY OF AN ORDER.—

(A) TEMPORARY INJUNCTION.—At any time after a complaint is filed under paragraph (1), the court, on application of the Secretary, may issue a temporary injunction, restraining to the extent the court considers proper, the covered person or contractor and the officers, directors, agents, and employees of the covered person or contractor from violating subsection (a).

(B) APPEALABILITY OF AN ORDER.—An order issued pursuant to this subsection shall be final and conclusive unless within 30 days after service of the order, the covered person or contractor petitions to appeal the order to the court of appeals for the circuit in which the covered person or contractor resides or has its principal place of business or the District of Columbia Circuit Court of Appeals.

(C) DELIVERY OF PETITION.—

(i) IN GENERAL.—The clerk of the court shall immediately cause a copy of the petition filed under subparagraph (B) to be delivered to the Secretary.

(ii) RECORD.—On receipt of the petition, the Secretary shall file in the court the record of the proceedings under this subsection.

(D) PENALTY FOR FAILURE TO OBEY AN ORDER.—

(i) IN GENERAL.—Any covered person or contractor that fails to obey any order of the Secretary issued under this section after the order, or the order as modified, has been sustained by the court or has otherwise become final, shall be fined not less than $5,000 and not more than $100,000 for each offense.

(ii) SEPARATE OFFENSES.—Each day during which the failure continues shall be considered a separate offense.

(5) RECORDS.—

(A) IN GENERAL.—Each covered person or contractor shall maintain for a period of not less than 5 years accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) that fully and correctly disclose all transactions involved in the business of the covered person or contractor, including the true ownership of the business.

(B) FAILURE TO KEEP RECORDS OR ALLOW THE SECRETARY TO INSPECT RECORDS.—Failure to keep, or allow the Secretary to inspect records as required by this paragraph shall constitute an unfair practice in violation of subsection (a)(1).

(C) INSPECTION OF RECORDS.—The Secretary shall have the right to inspect such accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) of any covered person or contractor as may be material to the investigation of any alleged violation of this section or for the purpose of investigating the business conduct or practices of an organization with respect to the covered person or contractor.

(c) COMPENSATION FOR INJURY.—

(1) ESTABLISHMENT OF THE FAMILY FARMER AND RANCHER CLAIMS COMMISSION.—

(A) IN GENERAL.—The Secretary shall appoint 3 individuals to a commission to be known as the ''Family Farmer and Rancher Claims Commission'' (referred to in this subsection as the ''Commission'') to review claims of family farmers and ranchers that have suffered financial damages as a result of any violation of this section as determined by the Secretary pursuant to subsection (b)(3).

(B) TERM OF SERVICE.—

(i) IN GENERAL.—Each member of the Commission shall serve 3-year terms which may be renewed.

(ii) INITIAL MEMBERS.—The initial members of the Commission may be appointed for a period of less than 3 years, as determined by the Secretary.

(2) REVIEW OF CLAIMS.—

(A) SUBMISSION OF CLAIMS.—A family farmer or rancher damaged as a result of a violation of this section, as determined by the Secretary pursuant to subsection (b)(3), may preserve the right to claim financial damages under this section by filing a claim pursuant to regulations promulgated by the Secretary.

(B) DETERMINATION.—Based on a review of the claim, the Commission shall determine the amount of damages to be paid, if any, as a result of the violation.

(C) REVIEW.—The decisions of the Commission under this paragraph shall not be subject to judicial review except to determine that the amount of damages to be paid is consistent with the published regulations of the Secretary that establish the criteria for implementing this subsection.

(3) FUNDING.—

(A) IN GENERAL.—Funds collected from civil penalties pursuant to this section shall—

(i) be transferred to a special fund in the Treasury;

(ii) be made available to the Secretary without further Act of appropriation; and

(iii) remain available until expended to pay the expenses of the Commission and claims described in this subsection.

(B) AUTHORIZATION OF APPROPRIATION.—In addition to the funds described in subparagraph (A), there are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 112. REPORTS OF THE SECRETARY ON POTENTIAL UNFAIR PRACTICES.

(a) FILING PREMERGER NOTICES WITH THE SECRETARY.—No covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business shall merge or acquire, directly or indirectly, any voting securities or assets of any other covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules promulgated by the Secretary, if—

(1) any voting securities or assets of the covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business with annual net sales or total assets of $10,000,000 or more are being acquired by a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business that has total assets or annual net sales of $100,000,000 or more; or

(2) any voting securities or assets of a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business with annual net sales, or total assets, of $100,000,000 or more are being acquired by any covered person, operator of a warehouse used to store agricultural commodities, or agriculture-related business with annual net sales or total assets of $10,000,000 or more, if, as a result of the acquisition, the acquiring person would hold an aggregate total amount of the voting securities and assets of the acquired person in excess of $50,000,000.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may conduct a review of any merger or acquisition described in subsection (a).

(2) EXCEPTION.—The Secretary shall conduct a review of any merger or acquisition described in subsection (a) on a request from a member of Congress.

(c) ACCESS TO RECORDS.—The Secretary may request any information, including any testimony, documentary material, or related information, from a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business, pertaining to any merger or acquisition of any covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business.

(d) PURPOSE OF REVIEW.—

(1) FINDINGS.—In conducting the review under subsection (a), the Secretary shall make findings concerning whether the merger or acquisition could—

(A) be significantly detrimental to the present or future viability of family farms or ranches or rural communities in the areas affected by the merger or acquisition, pursuant to standards established by the Secretary; or

(B) lead to a violation of section 111(a).

(2) REMEDIES.—The review may include a determination of possible remedies regarding how the parties of the merger or acquisition may take steps to modify their operations to address the findings described in paragraph (1).

(e) REPORT OF REVIEW.—

(1) PRELIMINARY REPORT.—After conducting the review required under subsection (b), the Secretary shall issue a preliminary report to the parties of the merger or acquisition and the Attorney General or the Federal Trade Commission, as appropriate, which shall include findings and a description of any remedies described in subsection (d)(2).

(2) FINAL REPORT.—After affording the parties described in paragraph (1) an opportunity for a hearing regarding the findings and any proposed remedies in the preliminary report, the Secretary shall issue a final report to the President and the Attorney General or the Federal Trade Commission, as appropriate, with respect to the merger or acquisition.

(f) IMPLEMENTATION OF THE REPORT.—Not later than 120 days after the issuance of a final report described in subsection (e)(2), the parties to the merger or acquisition affected by the report shall—

(1) make changes to their operations or structure to comply with the findings and implement any suggested remedy or any agreed-on alternative remedy; and

(2) file a response demonstrating the compliance or implementation.

(g) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2), information used by the Secretary to conduct the review required under this section provided by a party to the merger or acquisition under review or by a government agency shall be treated by the Secretary as confidential information pursuant to section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276).

(2) PARTY TO HEARING.—The Secretary may share any such information with the Attorney General, the Federal Trade Commission, and a party seeking a hearing pursuant to subsection (e)(2) with respect to information relating to the party.

(3) REPORT.—Subject to paragraph (1), the report issued under subsection (e) shall be available to the public.

(h) CIVIL PENALTIES.—

(1) ORIGINAL PENALTY.—

(A) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty in an amount not to exceed $300,000 for the failure of a person to comply with the requirements of subsection (a) or (f).

(B) ISSUE.—Any such hearing shall be limited to the issue of the amount of the civil penalty.

(2) ADDITIONAL PENALTY.—

(A) IN GENERAL.—If after being assessed a civil penalty under paragraph (1) a person continues to fail to meet the requirements of subsection (a) or (f), the Secretary may,

after affording the parties an opportunity for a hearing, assess a further civil penalty in an amount not to exceed $100,000 for each day the person continues the violation.

(B) ISSUE.—Any such hearing shall be limited to the issue of the additional civil penalty assessed under this paragraph.

SEC. 113. REPORT ON CORPORATE STRUCTURE.

(a) IN GENERAL.—

(1) REPORT.—A covered person with annual sales in excess of $100,000,000 shall annually file with the Secretary a report that describes, with respect to both domestic and foreign activities, the strategic alliances, ownership in other agribusiness firms or agribusiness-related firms, joint ventures, subsidiaries, brand names, and interlocking boards of directors with other corporations, representatives, and agents that lobby Congress on behalf of the covered person, as determined by the Secretary.

(2) CONTRACTS.—Paragraph (1) shall not apply to a contract.

(b) CIVIL PENALTIES.—

(1) ORIGINAL PENALTY.—

(A) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for the failure of a person to comply with this section.

(B) ISSUE.—Any such hearing shall be limited to the issue of the amount of the civil penalty

(2) ADDITIONAL PENALTY.—

(A) IN GENERAL.—If after being assessed a civil penalty in accordance with paragraph (1) a person continues to fail to meet the requirements of this section, the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty in an amount not to exceed $100,000 for each day the person continues the violation.

(B) ISSUE.—Any such hearing shall be limited to the amount of the additional civil penalty assessed under this paragraph.

SEC. 114. MANDATORY FUNDING FOR STAFF.

(a) IN GENERAL.—Out of the funds in the Treasury not otherwise appropriated, the Secretary of Treasury shall provide to the Secretary of Agriculture $7,000,000 for each of fiscal years 2002 through 2006, to hire, train, and provide for additional staff to carry out additional responsibilities under this subtitle, including a Special Counsel on Fair Markets and Rural Opportunity, additional attorneys for the Office of General Counsel, investigators, economists, and support staff.

(b) AVAILABILITY.—The sums shall be—

(1) made available to the Secretary without further Act of appropriation; and

(2) in addition to funds otherwise made available to the Secretary for the purposes described in subsection (a).

SEC. 115. GENERAL ACCOUNTING OFFICE STUDY.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Attorney General, the Secretary, the Federal Trade Commission, the National Association of Attorney's General, and other persons, shall—

(1) study competition in the domestic farm economy with a special focus on—

(A) protecting family farms and ranches and rural communities; and

(B) the potential for monopsony and oligopsony nationally and regionally; and

(2) provide a report to the appropriate committees of Congress on—

(A) the correlation between increases in the gap between—

(i) retail consumer food prices;

(ii) the prices paid to farmers and ranchers; and

(iii) any increases in concentration among processors, manufacturers, or other firms that buy from farmers and ranchers;

(B) the extent to which the use of formula pricing, marketing agreements, forward contracting, and production contracts tend to give processors, agribusinesses, and other buyers of agricultural commodities unreasonable market power over producers or suppliers in local markets;

(C) whether the granting of process patents relating to biotechnology research affecting agriculture during the past 20 years has tended to overly restrict related biotechnology research or has tended to overly limit competition in the biotechnology industries that affect agriculture in a manner that is contrary to the public interest, or could do so in the future;

(D) whether acquisitions of companies that own biotechnology patents and seed patents by multinational companies have the potential for reducing competition in the United States and unduly increasing the market power of the multinational companies;

(E) whether existing processors or agribusinesses have disproportionate market power and if competition could be increased if the processors or agribusinesses were required to divest assets to ensure that they do not exert the disproportionate market power over local markets;

(F) the extent of increase in concentration in milk processing, procurement and handling, and the potential risks from that increase in concentration on—

(i) the economic well-being of dairy farmers;

(ii) the school lunch program; and

(iii) other Federal nutrition programs;

(G) the impact of mergers, acquisitions, and joint ventures among dairy cooperatives on dairy farmers, including impacts on both members and nonmembers of the merging cooperatives;

(H) the impact of the significant increase in the use of stock as the primary means of effectuating mergers and acquisitions by large companies;

(I) the increase in the number and size of mergers or acquisitions in the United States and whether some of the mergers or acquisitions would have taken place if the merger or acquisition had to be consummated primarily with cash, other assets, or borrowing; and

(J) whether agricultural producers typically appear to derive any benefits (such as higher prices for their products or any other advantages) from right-of-first-refusal provisions contained in purchase contracts or other deals with agribusiness purchasers of the products.

Subtitle C—Contract Fairness

SEC. 121. OBLIGATION OF GOOD FAITH.

An agricultural contract shall carry an obligation of good faith (as defined in applicable State law provisions of the Uniform Commercial Code) on all parties to the agricultural contract with respect to the performance and enforcement of the agricultural contract.

SEC. 122. DISCLOSURE OF RISKS AND READABILITY REQUIREMENTS UNDER AGRICULTURAL CONTRACTS.

(a) READABILITY AND UNDERSTANDABILITY.—

(1) IN GENERAL.—An agricultural contract shall be readable and understandable, in that the agricultural contract—

(A) shall be printed in legible type;

(B) shall be appropriately divided into captioned sections; and

(C) shall be written in clear and coherent language using words and grammar that are understandable by a person of average intelligence, education, and experience within the agricultural industry.

(2) EFFECT.—Paragraph (1) does not preclude the use of—

(A) a particular word, phrase, provision, or form of agreement that is specifically required, recommended, or endorsed by a Federal or State law (including a regulation); or

(B) a technical term that is used to describe the service or property that is the subject of the agricultural contract, if the term is customarily used by producers in the ordinary course of business in connection with the service or property described.

(b) DISCLOSURE STATEMENT REQUIREMENT.—An agricultural contract shall—

(1) be accompanied by a clear written disclosure statement describing the material risks faced by the producer if the producer enters into the agricultural contract; and

(2) disclose (in a manner consistent with subsection (a)), provisions of the agricultural contract relating to—

(A) duration;

(B) termination;

(C) renegotiation standards;

(D) responsibility for environmental damage;

(E) factors to be used in determining payment;

(F) responsibility for obtaining and complying with Federal, State, and local permits;

(G) in the case of a production contract, the right of the producer to cancel the production contract in accordance with section 123; and

(H) any other terms that the Secretary determines are appropriate for disclosure.

(c) COVER SHEET REQUIREMENT.—An agricultural contract entered into, amended, or renewed after the date of enactment of this Act shall contain as the first page, or first page of text if it is preceded by a title page, a cover sheet that complies with subsection (a) and contains the following:

(1) A brief statement that the agricultural contract is a legal contract between the parties to the agricultural contract.

(2) The following statement: ''READ YOUR CONTRACT CAREFULLY. This cover sheet provides only a brief summary of your contract. This cover sheet is not the contract, and only the terms of the actual contract are legally binding. The contract itself sets forth, in detail, the rights and obligations of both you and the contractor or processor. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY.''.

(3) A written disclosure of risks in accordance with subsection (b).

(4) In the case of a production contract, a statement describing, in plain language, the right of the producer to cancel the production contract in accordance with section 123.

(5) An index of the major provisions of the agricultural contract and the pages on which the provisions appear, including—

(A) the name of each party to the agricultural contract;

(B) the definitions section of the agricultural contract;

(C) the provisions governing termination, cancellation, renewal, and amendment of the agricultural contract by either party;

(D) the duties and obligations of each party; and

(E) provisions subject to change in the agricultural contract.

(d) REVIEW BY SECRETARY.—

(1) SUBMISSION TO SECRETARY.—A contractor may submit an agricultural contract to the Secretary for review to determine whether the agricultural contract complies with this section.

(2) ACTION BY SECRETARY.—The Secretary shall—

(A) in determining whether an agricultural contract or cover sheet is readable, in accordance with subsection (a), consider—

(i) the simplicity of the sentence structure;

(ii) the extent to which commonly used and understood words are employed;

(iii) the extent to which esoteric legal terms are avoided;

(iv) the extent to which references to other sections or provisions of the agricultural contract are minimized;

(v) the extent to which clear definitions are used; and

(vi) any additional factors relevant to the readability or understandability of the agricultural contract; and

(B) after reviewing the agricultural contract—

(i) certify that the agricultural contract complies with this section;

(ii) decline to certify that the agricultural contract complies with this section and provide specific reasons for declining to certify the agricultural contract; or

(iii) decline to review the agricultural contract because—

(I) the compliance of the agricultural contract with this section is subject to pending litigation; or

(II) the agricultural contract is not subject to this section.

(3) JUDICIAL REVIEW.—An action of the Secretary under this subsection shall not be subject to judicial review.

(4) CERTIFICATION.—

(A) IN GENERAL.—An agricultural contract certified under this subsection shall be considered to comply with subsections (a), (b), and (c).

(B) NO APPROVAL OF LEGALITY OR LEGAL EFFECT.—Certification of an agricultural contract under this subsection shall not constitute an approval of the legality or legal effect of the agricultural contract.

(C) EFFECT OF APPROVAL; CONSTRUCTIVE APPROVAL.—If the Secretary certifies an agricultural contract under this subsection—

(i) the agricultural contract shall be considered to be in compliance with subsections (a), (b), and (c); and

(ii) the remedies provided under subsection (e) shall not be available.

(D) TIMING.—To the maximum extent practicable, the Secretary shall make a decision on the certification of an agricultural contract not later than 30 days after receipt of the agricultural contract.

(5) EFFECT OF DISAPPROVAL.—If the Secretary disapproves the certification of an agricultural contract, the agricultural contract shall be void.

(6) EFFECT OF FAILURE TO SUBMIT AGRICULTURAL CONTRACT.—The failure to submit an agricultural contract to the Secretary for review under this subsection shall not be considered to be a lack of good faith or to raise a presumption that the agricultural contract violates this section.

(e) REMEDIES FOR VIOLATIONS.—In addition to applicable remedies provided under State law, a court reviewing an agricultural contract that is not certified under subsection (d) may change the terms of the agricultural contract, or limit a provision of the agricultural contract, to avoid an unfair result if—

(1) the court finds—

(A) a material provision of the agricultural contract violates subsection (a), (b), or (c);

(B) the violation reasonably caused the producer to be substantially confused about any of the rights, obligations, or remedies of any party to the agricultural contract; and

(C) the violation has caused or is likely to cause financial detriment to the producer; and

(2) the claim is brought before the obligations of any party to the agricultural contract have been fully performed.

(f) LIMITATIONS ON PRODUCER ACTIONS.—

(1) IN GENERAL.—A violation of this section—

(A) shall not entitle a producer to withhold performance of an otherwise valid contractual obligation when bringing a claim for relief under this section; and

(B) is not a defense to a claim arising from the breach of an agricultural contract by a producer.

(2) ACTUAL DAMAGES.—A producer may recover actual damages caused by a violation of this section only if the violation reasonably caused the producer to fail to understand a right, obligation, or remedy under the agricultural contract.

(g) STATUTE OF LIMITATIONS.—A claim that an agricultural contract violates this section shall be made not later than 6 years after the date on which the agricultural contract is executed by the producer.

SEC. 123. RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.

(a) IN GENERAL.—A contract producer may cancel a production contract by mailing a cancellation notice to the contractor not later than the later of—

(1) the date that is 3 business days after the date on which the production contract is executed; or

(2) any cancellation date specified in the production contract.

(b) DISCLOSURE.—A production contract shall clearly disclose—

(1) the right of the contract producer to cancel the production contract;

(2) the method by which the contract producer may cancel the production contract; and

(3) the deadline for canceling the production contract.

SEC. 124. PROHIBITION OF CONFIDENTIALITY PROVISIONS.

(a) PROHIBITION.—Any provision of an agricultural contract that provides that information contained in the agricultural contract (other than a trade secret to which section 552 of title 5, United States Code, applies) is confidential shall be void.

(b) FORM.—A confidentiality provision described in subsection (a) shall be void regardless of whether the provision is—

(1) express or implied;

(2) oral or written;

(3) required or conditional; or

(4) contained in the agricultural contract, another agricultural contract, or in a related document, policy, or agreement.

(c) OTHER PROVISIONS.—This section shall not affect other provisions of an agricultural contract or a related document, policy, or agreement that can be given effect without the voided provision.

(d) DISCLOSURE OF INFORMATION.—This subsection does not require a party to an agricultural contract to disclose information in the agricultural contract to any other person.

SEC. 125. PRODUCTION CONTRACT LIENS.

(a) DEFINITION OF LIEN STARTING DATE.—In this section, the term ''lien starting date'' means—

(1) in the case of an annual crop, the date on which the annual crop is planted;

(2) in the case of a perennial crop, the starting date on which the perennial crop is subject to a production contract;

(3) in the case of livestock, the date on which the livestock arrive at the contract livestock facility; and

(4) in the case of milk or any other product of live livestock, the date on which the milk or other product is produced.

(b) LIENS.—In the case of a production contract that provides for producing an agricultural commodity by a contract producer, the contract producer shall have a lien in the amount owed to the contract producer under the production contract on—

(1)(A) the agricultural commodity until the agricultural commodity is sold or processed (including slaughtered) by the contractor; and

(B) the cash proceeds of the sale of the agricultural commodity, including any cash provided as part of the sale; and

(2) any property of the contractor that may be subject to a security interest as provided in applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(c) LIEN PERIOD.—A lien for the production of an agricultural commodity under this section shall apply during the period—

(1) beginning on the lien starting date; and

(2) ending 1 year after the agricultural commodity is no longer under the control of the contract producer.

(d) CENTRAL FILING SYSTEM.—The Secretary shall establish a central filing system for the purposes of perfecting liens under this section and providing notice of the liens to the public.

(e) PERFECTING LIENS.—To perfect a lien for the production of an agricultural commodity under this section, a contract producer shall—

(1) not later than 45 days after the lien starting date, file with the Secretary a lien statement on a form prescribed by the Secretary that includes—

(A) an estimate of the amount owed under the production contract;

(B) the lien starting date;

(C) the estimated duration of the period during which the agricultural commodity will be under the control of the contract producer;

(D) the name of the party to the production contract whose agricultural commodity is produced under the production contract;

(E) a description of the location of the contract operation, by State, county, and township; and

(F) the printed name and signature of the person filing the form; and

(2) pay a filing fee in an amount determined by the Secretary, not to exceed $10.00.

(f) PRIORITY OF LIEN.—A lien created under this section shall be superior to, and have priority over, any conflicting lien or security interest in the agricultural commodity, including a lien or security interest that was perfected prior to the creation of the lien under this section.

(g) ENFORCEMENT.—

(1) CONTROL.—Before an agricultural commodity leaves the control of a contract producer, the contract producer may foreclose a lien created under this section in the manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(2) POST-CONTROL.—After an agricultural commodity leaves the control of the contract producer, the contract producer may enforce the lien in the manner provided under applicable State law provisions based Article 9 of the Uniform Commercial Code.

(h) ELECTION OF OTHER REMEDIES.—In lieu of obtaining a lien under this section, a contract producer described in subsection (b) may seek to collect funds due under a production contract in accordance with—

(1) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.); or

(2) the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.).

SEC. 126. PRODUCTION CONTRACTS INVOLVING INVESTMENT REQUIREMENTS.

(a) APPLICABILITY.—This section applies only to a production contract between a contract producer and a contractor if the production contract requires the contract producer, together with any other production contract between the same parties, to make a capital investment of $100,000 or more.

(b) RESTRICTIONS ON CONTRACT TERMINATION.—Except as provided in subsection

(d), a contractor shall not terminate or fail to renew a production contract until the contractor—

(1) provides the contract producer with written notice of the intention of the contractor to terminate or not renew the production contract at least 90 days before the effective date of the termination or nonrenewal; and

(2) reimburses the contract producer for damages (based on the value of the remaining useful life of the structures, machinery, equipment, or other capital investment items) incurred due to the termination, cancellation, or nonrenewal of the production contract.

(c) BREACH OF INVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), a contractor shall not terminate or fail to renew a production contract with a contract producer that materially breaches a production contract, including the investment requirements of a production contract, until—

(A) the contractor provides the contract producer with a written notice of termination or nonrenewal, including a list of complaints alleging causes for the breach, at least 45 days before the effective date of the termination or nonrenewal; and

(B) the contract producer fails to remedy each cause of the breach alleged in the list of complaints provided in the notice not later than 30 days after receipt of the notice.

(2) CIVIL ACTIONS.—An effort by a contract producer to remedy a cause of an alleged breach shall not be considered to be an admission of a breach in a civil action.

(d) EXCEPTIONS.—A contractor may terminate or decline to renew a production contract in accordance with applicable law without notice or remedy as required in subsections (b) and (c) if the basis for the termination or nonrenewal is—

(1) a voluntary abandonment of the contractual relationship by the contract producer, such as a complete failure of the performance of a contract producer under the production contract; or

(2) the conviction of a contract producer of an offense of fraud or theft committed against the contractor.

(e) PENALTY.—If a contractor terminates or fails to renew a production contract other than as provided in this section, the contractor shall pay the contract producer the value of the remaining useful life of the structures, machinery, equipment, or other capital investment items.

SEC. 127. PRODUCER RIGHTS.

(a) IN GENERAL.—It shall be unlawful, in or in connection with any transaction in interstate or foreign commerce, for any covered person or contractor to take an action to coerce, intimidate, disadvantage, retaliate against, or discriminate against any producer because the producer exercises, or attempts to exercise, the right of the producer—

(1)(A) to enter into a membership agreement or marketing contract with an agricultural cooperative, a processor, or another producer; and

(B) to exercise contractual rights under the membership agreement or marketing contract;

(2) to lawfully provide statements or information to the Secretary, a Federal or State law enforcement agency, or any other entity or person regarding improper actions or violations of law by a covered person or contractor under this subtitle, unless the statements or information are determined to be libelous or slanderous under applicable State law;

(3) to cancel a production contract in accordance with section 123;

(4) to disclose the terms of an agricultural contract under section 124;

(5) to file, continue, terminate, or enforce a lien under section 125; and

(6) to enforce other protections provided by this subtitle or other Federal or State law (including regulations).

(b) WAIVERS.—Any provision of an agricultural contract that waives a producer right described in subsection (a), or an obligation of a covered person or contractor established by this subtitle, shall be void and unenforceable.

(c) VIOLATIONS.—Section 111(b) shall apply to a violation of this section.

SEC. 128. MEDIATION.

(a) MEDIATION.—

(1) IN GENERAL.—An agricultural contract shall provide for resolution of disputes concerning the agricultural contract by mediation.

(2) MEDIATION BY SECRETARY OR STATE MEDIATION SERVICE.—If there is a dispute involving an agricultural contract, either party to the agricultural contract may make a written request to the Secretary for mediation services by the Secretary or by a designated State mediation service to facilitate resolution of the dispute.

(3) HEARING.—The parties to the agricultural contract shall receive a release from the mediation services described in paragraph (2) before the dispute may be heard by a court.

(b) NO ARBITRATION OF FUTURE CONTROVERSY.—A provision in an agricultural contract submitting to arbitration a future controversy arising between a producer and a covered person or contractor shall be void.

Subtitle D—Agricultural Fair Practices

SEC. 131. AGRICULTURAL FAIR PRACTICES.

The Agricultural Fair Practices Act of 1967 (7 U.S.C. 2301 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Agricultural Fair Practices Act of 1967'.

"SEC. 2. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States of the United States;

''(2) agricultural products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and agricultural products that do not move in the channels directly burden or affect interstate commerce;

''(3) the efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to the welfare of farmers and ranchers and to the general economy of the United States;

''(4) because agricultural products are produced by numerous individual farmers and ranchers, the marketing and bargaining position of individual farmers and ranchers will be adversely affected unless farmers and ranchers are free to join together voluntarily in cooperative organizations as authorized by law; and

''(5) interference with the right described in paragraph (4) is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

''(b) PURPOSE.—The purpose of this Act is to establish standards of fair practices required of handlers for dealings in agricultural products.

"SEC. 3. DEFINITIONS.

''In this Act:

''(1) ACCREDITED ASSOCIATION.—The term 'accredited association' means an association of producers accredited by the Secretary in accordance with section 6.

''(2) ASSOCIATION OF PRODUCERS.—

''(A) IN GENERAL.—The term 'association of producers' means an association of producers of agricultural products that engages in the marketing of agricultural products or of agricultural services described in paragraph (6)(B).

''(B) INCLUSIONS.—The term 'association of producers' includes—

''(i) a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)); and

''(ii) an association described in the first section of the Act entitled 'An Act to authorize association of producers of agricultural products' (commonly known as the 'Capper-Volstead Act') (7 U.S.C. 291).

''(3) BARGAIN; BARGAINING.—The terms 'bargain' and 'bargaining' refers to the performance of the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced or services rendered under contract, or other provisions relating to the products marketed, or the services rendered, by the members of the accredited association or by the accredited association as agent for the members.

''(4) DESIGNATED HANDLER.—The term 'designated handler' means a handler that is designated in accordance with section 6.

''(5) HANDLER.—

''(A) IN GENERAL.—The term 'handler' means any person engaged in the business or practice of—

''(i) acquiring agricultural products from producers or associations of producers for processing or sale;

''(ii) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers;

''(iii) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or

''(iv) acting as an agent or broker for a handler in the performance of any function or act described in clause (i), (ii), or (iii).

''(B) EXCLUSIONS.—The term ''handler'' does not include—

''(i) any person (other than an agricultural cooperative) engaged in a business or practice described in subparagraph (A) if the gross revenue derived by the person from the business or activity is less than $10,000,000 per year; or

''(ii) any agricultural cooperative engaged in a business or practice described in subparagraph (A) if the gross revenue derived by the person from the business or activity is less than $1,000,000 per year.

''(6) PRODUCER.—

''(A) IN GENERAL.—The term 'producer' means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, poultryman, or fruit, vegetable, or nut grower.

''(B) INCLUSIONS.—The term 'producer' includes a person that contributes labor, production management, facilities, or other services for the production of an agricultural product.

''(7) PERSON.—The term 'person' includes an individual, partnership, corporation, and association.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 4. PROHIBITED PRACTICES.

''It shall be unlawful for any handler knowingly to, or knowingly to permit any employee or agent to—

''(1) interfere with, restrain, or coerce any producer in the exercise of the right of the producer to join and belong to, or to refrain

from joining or belonging to, an association of producers, or to refuse to deal with any producer because of the exercise of the right of the producer to join and belong to the association;

''(2) discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of an agricultural product because of the membership of the producer in, or the contract of the producer with, an association of producers;

''(3) coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler;

''(4) pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers;

''(5) make false reports about the finances, management, or activities of an association of producers or handlers;

''(6) conspire, combine, agree, or arrange with any other person to do, or aid or abet the performance of, any act made unlawful by this Act;

''(7) refuse to bargain in good faith with an accredited association, if the handler is a designated handler; or

''(8) dominate or interfere with the formation or administration of any association of producers or to contribute financial or other support to an association of producers.

''SEC. 5. BARGAINING IN GOOD FAITH.

''(a) CLARIFICATION OF OBLIGATION.—

''(1) IN GENERAL.—The obligation of a designated handler to bargain in good faith shall apply with respect to an accredited association and the products or services for which the accredited association is accredited to bargain.

''(2) AGREEMENTS OR CONCESSIONS.—The good faith bargaining required between a handler and an accredited association shall not require either party to agree to a proposal or to make a concession.

''(b) EXTENSION OF SAME TERMS TO ACCREDITED ASSOCIATION.—

''(1) IN GENERAL.—If a designated handler purchases a product or service from producers under terms more favorable to the producers than the terms negotiated with an accredited association for the same type of product or service, the handler shall offer the same terms to the accredited association.

''(2) VIOLATIONS.—Failure to extend the same terms to the accredited association shall be considered to be a violation of section 4(g).

''(3) FACTORS.—In comparing terms, the Secretary shall consider—

''(A) the stipulated purchase price;

''(B) any bonuses, premiums, hauling, or loading allowances;

''(C) reimbursement of expenses;

''(D) payment for special services of any character that may be paid by the handler; and

''(E) any amounts paid or agreed to be paid by the handler for any designated purpose other than payment of the purchase price.

''(c) MEDIATION.—The Secretary may provide mediation services with respect to bargaining between an accredited association and a designated handler at the request of the accredited association or designated handler.

''SEC. 6. ACCREDITATION OF ASSOCIATIONS AND DESIGNATION OF HANDLERS.

''(a) ACCREDITATION PETITION.—

''(1) IN GENERAL.—An association of producers seeking accreditation to bargain on behalf of producers of an agricultural product or service shall submit to the Secretary a petition for accreditation.

''(2) CONTENT.—The petition shall—

''(A) specify each agricultural product or service for which the association seeks accreditation to bargain on behalf of producers;

''(B) designate the handlers, individually, by production or marketing area, or by some other appropriate general classification, with whom the association seeks to be accredited to bargain; and

''(C) contain such other information and documents as may be required by the Secretary.

''(b) NOTICE OF PETITION; PROCEEDINGS.—

''(1) IN GENERAL.—On receiving a petition under subsection (a) and any supporting material, the Secretary shall provide notice of the petition to all handlers designated in the petition under subsection (a)(2)(B).

''(2) INDIVIDUAL HANDLERS.—The Secretary shall provide personal notice under this subsection to a handler that has been designated individually.

''(3) GENERAL CLASSIFICATIONS.—The Secretary shall provide notice through the Federal Register to handlers that have been designated by production or marketing area or by some other general classification.

''(4) OPPORTUNITY TO RESPOND.—The association of producers seeking accreditation and the handlers shall have an opportunity to submit written evidence, views, and arguments to the Secretary.

''(5) PROCEEDINGS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may conduct an informal proceeding on the petition.

''(B) FORMAL HEARINGS.—The Secretary shall hold a formal hearing for the reception of testimony and evidence if the Secretary finds that there are substantial unresolved issues of material fact.

''(c) ISSUANCE OF ACCREDITATION ORDER.—On the petition of an association of producers, the Secretary may issue an order designating the association of producers as an accredited association for the purposes of this Act if the Secretary determines that—

''(1) under the charter documents or bylaws of the association, the accredited association is owned and controlled by producers;

''(2) the association has contracts, binding under State law, with the members of the association empowering the association to sell or negotiate terms of sale of the products or services of the members;

''(3) the association represents a sufficient number of producers, or the members of the association produce a sufficient quantity of agricultural products or render a sufficient level of services, to enable the association to function as an effective agent for producers in bargaining with designated handlers;

''(4) the functions of the association include acting as principal or agent for the members of the association in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of products or services of the members; and

''(5) the association is acting in good faith with respect to the members of the association and is complying with this Act.

''(d) NOTIFICATION OF ACCREDITATION ORDER.—

''(1) IN GENERAL.—The Secretary shall notify the petitioning association of producers, and each handler to be designated as part of the petition, of the decision of the Secretary regarding the petition and provide a concise statement of the basis for the decision.

''(2) OTHER ASSOCIATIONS.—The Secretary shall provide notice of an accreditation of an association to all other associations that have been accredited to bargain with respect to the product or service with any of the designated handlers of the association.

''(e) ANNUAL REPORT.—Each accredited association shall submit to the Secretary an annual report in such form and including such information as the Secretary by regulation may require to enable the Secretary to determine whether the association is meeting the standards for accreditation.

''(f) LOSS OF ACCREDITATION.—

''(1) IN GENERAL.—If the Secretary determines that an accredited association has ceased to meet the standards for accreditation under subsection (c), the Secretary shall—

''(A) notify the association of the manner in which the association is deficient in maintaining the standards for accreditation; and

''(B) allow the association a reasonable period of time to answer or correct the deficiencies.

''(2) HEARING.—After providing notice and a corrective period in accordance with paragraph (1), if the Secretary is not satisfied that the association is in compliance with subsection (c), the Secretary shall—

''(A) notify the association of the continued deficiencies; and

''(B) hold a hearing to consider the revocation of accreditation.

''(3) REVOCATION.—If, based on the evidence submitted at the hearing, the Secretary finds that the association has ceased to maintain the standards for accreditation, the Secretary shall revoke the accreditation of the association.

''(g) AMENDMENT.—

''(1) IN GENERAL.—At the option of the Secretary or on the petition of an accredited association or a designated handler, the Secretary may amend an accreditation order with respect to the product or service specified in the accreditation order.

''(2) NOTICE.—The Secretary shall provide—

''(A) notice of any proposed amendment and the reasons for the amendment to all accredited associations and handlers that would be directly affected by the amendment; and

''(B) an opportunity for a public hearing.

''(3) AUTHORITY.—After providing notice and an opportunity for a hearing in accordance with paragraph (2), the Secretary may amend the accreditation order if the Secretary finds that the amendment will be conducive to more effective bargaining and orderly marketing by the accredited association of the product or services of the members of the accredited association.

''SEC. 7. ASSIGNMENT OF ASSOCIATION DUES AND FEES.

''(a) IN GENERAL.—A producer of an agricultural product or service may execute, as a clause in a sales contract or in another written instrument, an assignment of dues or fees to, or the deduction of a sum to be retained by, an association of producers authorized by contract to represent the producer, under which assignment a handler shall—

''(1) deduct a portion of the amount to be paid for products or services of the producer under a growing contract; and

''(2) pay, on behalf of the producer, the portion over to the association as dues or fees or a sum to be retained by the association.

''(b) DUTY OF HANDLER.—After a handler receives notice from a producer of an assignment under subsection (a), the handler shall—

''(1) deduct the amount authorized by the assignment from the amount paid for any agricultural product sold by the producer or for any service rendered under any growing contract; and

''(2) on payment to producers for the product or service, pay the amount over to the association or the assignee of the association.

"SEC. 8. POWERS OF SECRETARY.

''(a) RECORDS AND INFORMATION.—

''(1) MAINTENANCE.—The Secretary may require any person covered by this Act to establish and maintain such records, make such reports, and provide such other information as the Secretary may reasonably require to carry out this Act.

''(2) ACCESS.—The Secretary and any officer or employee of the Department of Agriculture, on presentation of credentials and a warrant or such other order of a court—

''(A) shall have a right of entry to, on, or through any premises in which records required to be maintained under paragraph (1) are located; and

''(B) may at reasonable times have access to and copy any records that any person is required to maintain or that relate to any matter under this Act under investigation or in question.

''(b) COMPLAINTS.—If the Secretary has reason to believe (whether through investigation or petition by any person) that any person has violated this Act, the Secretary shall cause a complaint to be served on the person—

''(1) stating the reasons for the alleged violation of this Act; and

''(2) requiring the person to attend and testify at a hearing to be held not earlier than 30 days after the date of service of the complaint.

''(c) HEARING.—

''(1) IN GENERAL.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary to determine whether a violation of this Act has occurred.

''(2) RIGHT TO HEARING.—A person may request a hearing if the person is subject to a penalty under this Act.

''(3) RESPONDENTS' RIGHTS.—During a hearing, the person complained of shall be given, in accordance with regulations promulgated by the Secretary, the opportunity—

''(A) to be informed of the evidence against the person;

''(B) to cross-examine witnesses; and

''(C) to present evidence.

''(4) HEARING LIMITATION.—The issues at any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which the hearing was held or requested.

''(d) REPORT OF FINDING AND PENALTIES.—

''(1) IN GENERAL.—If, after a hearing, the Secretary finds that a person has violated this Act, the Secretary shall make, and provide to the person, a written report that states the findings of fact and includes an order requiring the person to cease and desist from committing the violation.

''(2) CIVIL PENALTY.—The Secretary may assess a civil penalty not to exceed $100,000 for each violation of this Act.

''(e) INJUNCTIONS; FINALITY AND APPEALABILITY OF AN ORDER.—

''(1) INJUNCTIONS.—At any time after a complaint is served on a person under subsection (b), the court, on application of the Secretary, may issue an injunction, restraining to the extent the court determines to be appropriate, the person and the officers, directors, agents, and employees of the person from violating this Act.

''(2) APPEALABILITY OF AN ORDER.—An order issued under this section shall be final and conclusive unless, within 30 days after service of the order, the affected handler petitions to appeal the order to the United States court of appeals for the circuit in which the handler resides or has its principal place of business or the United States Court of Appeals for the District of Columbia Circuit.

''(3) DELIVERY OF PETITION.—

''(A) IN GENERAL.—The clerk of the court shall immediately cause a copy of any petition filed under paragraph (2) to be delivered to the Secretary.

''(B) RECORD.—On receipt of the petition, the Secretary shall file in the court the record of the proceedings under this section.

''(4) PENALTY FOR FAILURE TO OBEY AN ORDER.—

''(A) IN GENERAL.—Any person that fails to obey an order of the Secretary issued under this section after the order becomes final shall be fined not less than $5,000 and not more than $100,000 for each offense.

''(B) SEPARATE OFFENSES.—Each day during which the failure continues shall be considered to be a separate offense.

"SEC. 9. ENFORCEMENT.

''(a) CIVIL ACTIONS BY AGGRIEVED PERSONS.—

''(1) PREVENTIVE RELIEF.—Whenever any handler has engaged or there are reasonable grounds to believe that any handler is about to engage in any act or practice prohibited by this Act, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved.

''(2) ATTORNEY'S FEES.—In any action commenced under paragraph (1), the court may allow the prevailing party a reasonable attorney's fee as part of the costs.

''(3) SECURITY.—The court may provide that no restraining order or preliminary injunction shall issue unless security is provided by the applicant, in such sum as the court determines to be appropriate, for the payment of such costs and damages as may be incurred or suffered by any party that is found to have been wrongfully enjoined or restrained.

''(b) CIVIL ACTIONS BY INJURED PERSONS.—

''(1) IN GENERAL.—Any person injured in the business or property of the person by reason of any violation of, or combination or conspiracy to violate, this Act may—

''(A) sue for the violation in the appropriate United States district court without respect to the amount in controversy; and

''(B) recover damages sustained.

''(2) ATTORNEY'S FEES.—In any action commenced under paragraph (1), the court may allow the prevailing party a reasonable attorney's fee as part of the costs.

''(3) LIMITATION ON ACTIONS.—Any action to enforce any cause of action under this subsection shall be barred unless commenced within 2 years after the cause of action occurred.

''(c) JURISDICTION OF DISTRICT COURTS.—

''(1) IN GENERAL.—A United States district court shall have jurisdiction over an action brought under this section.

''(2) LIMITATIONS.—No action may be commenced under subsection (a) or (b)—

''(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary through a petition under section 8(b); or

''(B) if the Secretary has commenced and is diligently prosecuting an action (administrative or judicial) dealing with the same violation to require compliance with the Act.

''(d) JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under section 8(e)(2) shall not be subject to judicial review in any proceeding for enforcement under this section.

"SEC. 10. PREEMPTION.

''(a) IN GENERAL.—Except as expressly provided in this Act, this Act does not invalidate the provisions of any State law dealing with the same subject as this Act.

''(b) STATE COURTS.—This Act shall not deprive a State court of jurisdiction under a State law dealing with the same subject as this Act.''.

Subtitle E—Implementation

SEC. 141. RELATIONSHIP TO STATE LAW.

(a) IN GENERAL.—Except as expressly provided in this title, this title does not invalidate any provision of State law dealing with the same subject as this title.

(b) STATE COURTS.—This title does not deprive a State court of jurisdiction under a State law dealing with the same subject as this title.

SEC. 142. REGULATIONS.

The Secretary shall promulgate such regulations as are appropriate to carry out this title and the amendments made by this title.

SEC. 143. IMPLEMENTATION PLAN.

Not later than 180 days after the date of enactment of this Act, the Secretary and the Attorney General shall develop and implement a plan to enable the Secretary, where appropriate, to file civil actions, including temporary injunctions, to enforce orders issued by the Secretary under this title and the Agricultural Fair Practices Act of 1967 (as amended by section 131).

SEC. 144. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title take effect on the date of enactment of this Act.

(b) AGRICULTURAL CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subtitle C applies to an agricultural contract in force on or after the date of enactment of this Act, regardless of the date on which the agricultural contract is executed.

(2) EXCEPTIONS.—Sections 122, 123, 126, 127(a)(5), and 128(a) shall apply only to an agricultural contract that is executed or substantively amended after the date of enactment of this Act.

TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND

SEC. 201. NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle F—National Rural Cooperative and Business Equity Fund

"SEC. 391A. SHORT TITLE.

''This subtitle may be cited as the 'National Rural Cooperative and Business Equity Fund Act'.

"SEC. 391B. PURPOSE.

''The purpose of this subtitle is to revitalize rural communities and enhance farm income through sustainable rural business development by providing Federal funds and credit enhancements to a private equity fund in order to encourage investments by institutional and noninstitutional investors for the benefit of rural America.

"SEC. 391C. DEFINITIONS.

''In this subtitle:

''(1) AUTHORIZED PRIVATE INVESTOR.—The term 'authorized private investor' means an individual, legal entity, or affiliate or subsidiary of an individual or legal entity that—

''(A) is eligible to receive a loan guarantee under this title;

''(B) is eligible to receive a loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

''(C) is created under the National Consumer Cooperative Bank Act (12 U.S.C. 3011 et seq.);

''(D) is an insured depository institution; or

''(E) is determined by the Fund to be an appropriate investor in the Fund.

''(2) BOARD.—The term 'Board' means the board of directors of the Fund established under section 391G.

''(3) FUND.—The term 'Fund' means the National Rural Cooperative and Business Equity Fund established under section 391D.

''(4) GROUP OF SIMILAR INVESTORS.—The term 'group of similar investors' means any 1 of the following:

''(A) Insured depository institutions with total assets of more than $250,000,000.

''(B) Insured depository institutions with total assets equal to or less than $250,000,000.

''(C) Farm Credit System institutions under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

''(D) Cooperative financial institutions (other than Farm Credit System institutions).

''(E) Authorized private investors, other than those described in subparagraphs (A) through (D).

''(F) Other nonprofit organizations, including credit unions.

''(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

''(6) RURAL AREA.—The term 'rural area' means an area that is located—

''(A) outside a standard metropolitan statistical area; or

''(B) within a community that has a population of 50,000 individuals or fewer.

''(7) RURAL BUSINESS.—The term 'rural business' means a rural cooperative, a value-added agricultural enterprise, or any other business located or locating in a rural area.

''SEC. 391D. ESTABLISHMENT OF THE FUND.

''(a) IN GENERAL.—

''(1) AUTHORITY TO ESTABLISH.—A group of authorized private investors may establish, as a non-Federal entity under State law, and manage a fund to be known as the 'National Rural Cooperative and Business Equity Fund', to raise and provide equity capital to rural businesses.

''(2) COMPOSITION OF GROUP.—The group of authorized private investors referred to in paragraph (1) shall be composed, to the maximum extent practicable, of representatives of a majority of groups of similar investors.

''(b) PURPOSES.—The purposes of the Fund shall be—

''(1) to strengthen the economy of rural areas;

''(2) to further sustainable rural business development;

''(3) to encourage start-up rural businesses, increased opportunities for small and minority-owned rural businesses, and the formation of new rural businesses;

''(4) to enhance rural employment opportunities;

''(5) to provide equity capital to rural businesses that have been unable to obtain equity capital; and

''(6) to leverage non-Federal funds for rural businesses.

''(c) ARTICLES OF INCORPORATION AND BY-LAWS.—The articles of incorporation and by-laws of the Fund shall set forth purposes of the Fund that are consistent with subsection (b).

''SEC. 391E. INVESTMENT IN THE FUND.

''(a) IN GENERAL.—The Secretary, using funds of the Commodity Credit Corporation, shall—

''(1) subject to subsection (b)(1), make available to the Fund $50,000,000 for each of fiscal years 2001 through 2003;

''(2) subject to subsection (c), guarantee 50 percent of each investment made by an authorized private investor in the Fund; and

''(3) subject to subsection (d), guarantee the repayment of principal to authorized private investors in debentures issued by the Fund.

''(b) PRIVATE INVESTMENT.—

''(1) MATCHING REQUIREMENT.—Under subsection (a)(1), the Secretary shall make an amount available to the Fund only after an equal amount has been invested in the Fund by authorized private investors in accordance with this subtitle and the terms and conditions set forth in the by-laws of the Fund.

''(2) INVESTMENTS BY INSURED DEPOSITORY INSTITUTIONS.—Investments in the Fund by an insured depository institution shall be considered part of the record of the insured depository institution for meeting the credit needs of its entire community for the purposes of Federal law.

''(c) GUARANTEE OF PRIVATE INVESTMENTS.—

''(1) IN GENERAL.—The Secretary shall guarantee, under terms and conditions determined by the Secretary, 50 percent of any loss of the principal of an investment made in the Fund by an authorized private investor.

''(2) MAXIMUM TOTAL GUARANTEE.—The aggregate liability of the Secretary with respect to all guarantees under paragraph (1) shall not apply to more than $300,000,000 in private investments.

''(3) REDEMPTION OF GUARANTEE.—

''(A) DATE.—An authorized private investor in the Fund may redeem a guarantee under paragraph (1), with respect to the total investments in the Fund and the total losses of the authorized private investor as of the date of redemption—

''(i) on the date that is 5 years after the date of incorporation of the Fund; or

''(ii) annually thereafter.

''(B) EFFECT OF REDEMPTION.—On redemption of a guarantee under subparagraph (A)—

''(i) the shares in the Fund of the authorized private investor shall be redeemed; and

''(ii) the authorized private investor shall be prohibited from making any future investment in the Fund.

''(d) DEBT.—

''(1) IN GENERAL.—The Fund may, at the discretion of the Board, raise additional capital through the issuance of debentures and through other means determined to be appropriate by the Board.

''(2) GUARANTEE OF DEBT BY SECRETARY.—

''(A) IN GENERAL.—The Secretary may guarantee 100 percent of the principal of, and accrued interest on, debentures issued by the Fund that are approved by the Secretary.

''(B) MAXIMUM DEBT GUARANTEED BY SECRETARY.—The outstanding value of debentures issued by the Fund and guaranteed by the Secretary shall not exceed the lesser of—

''(i) the amount equal to twice the value of the assets held by the Fund; or

''(ii) $500,000,000.

''(C) RECAPTURE OF GUARANTEE PAYMENTS.—If the Secretary makes a payment on a debenture issued by the Fund as a result of a guarantee of the Secretary under this paragraph, the Secretary shall have priority over other creditors for repayment of the debenture.

''(3) AUTHORIZED PRIVATE INVESTORS.—An authorized private investor may purchase debentures and other securities issued by the Fund.

''SEC. 391F. INVESTMENTS AND OTHER ACTIVITIES OF THE FUND.

''(a) INVESTMENTS.—

''(1) IN GENERAL.—

''(A) TYPES.—Subject to subparagraphs (B) and (C), the Fund may—

''(i) make equity investments in an entity that meets the requirements of paragraph (6) and such other requirements as the Board may establish; and

''(ii) extend credit to such an entity in—

''(I) the form of mezzanine debt or subordinated debt; or

''(II) any other form of quasi-equity.

''(B) LIMITATION ON EQUITY INVESTMENTS.—After the initial equity investment in an entity described in subparagraph (A)(i), the Fund may not make additional equity investments in the entity if the additional equity investments would result in the Fund owning more than 30 percent of the equity of the entity.

''(C) LIMITATION ON NONEQUITY INVESTMENTS.—Except in the case of a project to assist a rural cooperative, the total amount of nonequity investments described in subparagraph (A)(ii) that may be provided by the Fund shall not exceed 20 percent of the total investments of the Fund in the project.

''(2) PROCEDURES.—The Fund shall implement procedures to ensure that—

''(A) the financing arrangements of the Fund meet the Fund's primary focus of providing equity capital; and

''(B) the Fund does not compete with conventional sources of credit.

''(3) DIVERSITY OF PROJECTS.—The Fund—

''(A) shall seek to make equity investments in a variety of viable projects, with a significant share of investments—

''(i) in smaller projects in rural communities of diverse sizes; and

''(ii) in cooperative and noncooperative enterprises; and

''(B) shall be managed in such a way as to diversify the risks to the Fund among a variety of projects.

''(4) LIMITATION ON RURAL BUSINESSES ASSISTED.—The Fund shall not invest in any rural business that is primarily retail in nature (as determined by the Board), other than a purchasing cooperative.

''(5) INTEREST RATE LIMITATIONS.—Returns on investments in and by the Fund and returns on the extension of credit by participants in projects assisted by the Fund, shall not be subject to any State or Federal law establishing a maximum allowable interest rate.

''(6) REQUIREMENTS FOR RECIPIENTS.—

''(A) OTHER INVESTMENTS.—Any recipient of amounts from the Fund shall make or obtain a significant investment from a source of capital other than the Fund.

''(B) SPONSORSHIP.—Rural business investment projects to be considered for an equity investment from the Fund shall be sponsored by a regional, State, or local sponsoring or endorsing organization such as—

''(i) a financial institution;

''(ii) a development organization; or

''(iii) any other established entity engaging or assisting in rural business development, including a rural cooperative.

''(b) TECHNICAL ASSISTANCE.—The Board shall use not less than 1 percent of the net earnings of the Fund to provide technical assistance to rural businesses seeking an equity investment from the Fund.

''(c) ANNUAL AUDIT.—

''(1) IN GENERAL.—The Board shall authorize an annual audit of the financial statements of the Fund by a nationally recognized auditing firm using generally accepted auditing procedures.

''(2) AVAILABILITY OF AUDIT RESULTS.—The results of the audit required by paragraph (1) shall be made available to investors in the Fund.

''(d) ANNUAL REPORT.—The Board shall prepare and make available to the public an annual report that—

''(1) describes the projects funded with amounts from the Fund;

''(2) specifies the recipients of amounts from the Fund;

''(3) specifies the co-investors in all projects that receive amounts from the Fund; and

''(4) meets the reporting requirements, if any, of the State under the law of which the Fund is established.

''(e) OTHER AUTHORITIES.—The Board may exercise such other authorities as are necessary to carry out this subtitle.

''SEC. 391G. GOVERNANCE OF THE FUND.

''(a) IN GENERAL.—The Fund shall be governed by a board of directors that represents all of the authorized private investors in the Fund and the Federal Government and that consists of—

''(1) the Secretary or a designee;

''(2) 2 members who are appointed by the Secretary and are not Federal employees, including—

''(A) 1 member with expertise in venture capital investment; and

''(B) 1 member with expertise in cooperative development;

''(3) 8 members who are elected by the authorized private investors with investments in the Fund; and

''(4) 1 member who is appointed by the Board and who is a community banker from an insured depository institution with total assets equal to or less than $250,000,000.

''(b) LIMITATION ON VOTING CONTROL.—No individual investor or group of similar investors may control more than 25 percent of the votes on the Board.''.

TITLE III—COUNTRY OF ORIGIN LABELING

SEC. 301. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

''Subtitle C—Country of Origin Labeling

''SEC. 271. DEFINITIONS.

''In this subtitle:

''(1) BEEF.—The term 'beef' means meat produced from cattle (including veal).

''(2) COVERED COMMODITY.—The term 'covered commodity' means—

''(A) muscle cuts of beef, lamb, and pork;

''(B) ground beef, ground lamb, and ground pork; and

''(C) a perishable agricultural commodity.

''(3) FOOD SERVICE ESTABLISHMENT.—The term 'food service establishment' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

''(4) LAMB.—The term 'lamb' means meat, other than mutton, produced from sheep.

''(5) PACKER.—The term 'packer' has the meaning given the term in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191).

''(6) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms 'perishable agricultural commodity' and 'retailer' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

''(7) PORK.—The term 'pork' means meat produced from hogs.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

''SEC. 272. NOTICE OF COUNTRY OF ORIGIN.

''(a) IN GENERAL.—

''(1) REQUIREMENT.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

''(2) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity (other than a perishable agricultural commodity) may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States.

''(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

''(1) prepared or served in a food service establishment; and

''(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

''(B) served to consumers at the food service establishment.

''(c) METHOD OF NOTIFICATION.—

''(1) IN GENERAL.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

''(2) LABELED COMMODITIES.—If the covered commodity is already individually labeled for retail sale regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

''(d) AUDIT VERIFICATION SYSTEM.—The Secretary may require by regulation that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section 274.

''(e) INFORMATION.—A packer and any other person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

''SEC. 273. ENFORCEMENT.

''Section 253 shall apply to a violation of this subtitle.

''SEC. 274. REGULATIONS.

''(a) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this subtitle.

''(b) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this subtitle.

''SEC. 275. APPLICATION.

''This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.''.

TITLE IV—MARKETING ASSISTANCE LOAN RATE EQUALIZATION

SEC. 401. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended to read as follows:

''SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

''(a) WHEAT.—The loan rate for a marketing assistance loan under section 131 for wheat shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of wheat.

''(b) FEED GRAINS.—

''(1) CORN.—The loan rate for a marketing assistance loan under section 131 for corn shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of corn.

''(2) OTHER FEED GRAINS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

''(B) BASIS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of grain sorghum, barley, and oats, respectively.

''(c) UPLAND COTTON.—The loan rate for a marketing assistance loan under section 131 for upland cotton shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of upland cotton.

''(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of extra long staple cotton.

''(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of rice.

''(f) OILSEEDS.—

''(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of soybeans.

''(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively.

''(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.''.

SEC. 402. TERM OF LOANS.

Section 133 of the Agriculture Market Transition Act (7 U.S.C. 7233) is amended to read as follows:

''SEC. 133. TERM OF LOANS.

''(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 131 shall have a term of 20 months beginning on the first day of the first month after the month in which the loan is made.

''(b) EXTENSIONS AUTHORIZED.—The Secretary may extend the term of a marketing assistance loan for any loan commodity.''.

SEC. 403. APPLICATION.

This title and the amendments made by this title shall apply to each of the 2001 and 2002 crops of a loan commodity (as defined in section 102 of the Agricultural Market Transition Act (7 U.S.C. 7202).

TITLE V—FARMLAND PROTECTION

SEC. 501. FARMLAND PROTECTION PROGRAM.

Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) is amended to read as follows:

"SEC. 388. FARMLAND PROTECTION PROGRAM.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) any agency of any State or local government, or federally recognized Indian tribe; and

''(2) any organization that—

''(A) is organized for, and at all times since its formation has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(B) is an organization described in section 501(c)(3) of the Code that is exempt from taxation under section 501(a) of the Code; and

''(C)(i) is described in section 509(a)(2) of the Code of; or

''(ii) is described in section 509(a)(3) of the Code and is controlled by an organization described in section 509(a)(2) of the Code.

''(b) AUTHORITY.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall provide grants to eligible entities, to provide the Federal share of the cost of purchasing conservation easements or other interests in land with prime, unique, or other productive soil for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

''(c) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement or other interest described in subsection (b) shall be not more than 50 percent.

''(d) TITLE; ENFORCEMENT.—Title to a conservation easement or other interest described in subsection (b) may be held, and the conservation requirements of the easement or interest enforced, by any eligible entity.

''(e) STATE CERTIFICATION.—The attorney general of the State in which land is located shall take such actions as are necessary to ensure that a conservation easement or other interest under this section is in a form that is sufficient to achieve the conservation purpose of the farmland protection program established under this section, the law of the State, and the terms and conditions of any grant made by the Secretary under this section.

''(f) CONSERVATION PLAN.—Any land for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan to the extent that the plan does not negate or adversely affect the restrictions contained in any easement.

''(g) TECHNICAL ASSISTANCE.—The Secretary may use not more than 10 percent of the amount that is made available for a fiscal year under subsection (h) to provide technical assistance to carry out this section.

''(h) FUNDING.—For each fiscal year, the Secretary shall use not more than $250,000,000 of the funds of the Commodity Credit Corporation to carry out this section.''.

TITLE VI—CIVIL RIGHTS

SEC. 601. SENSE OF CONGRESS ON PARTICIPATION OF SOCIALLY DISADVANTAGED GROUPS IN DEPARTMENT OF AGRICULTURE PROGRAMS.

It is the sense of Congress that the Secretary of Agriculture should take such actions as are necessary to ensure, to the maximum extent practicable, that members of socially disadvantaged groups (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e))—

(1) are informed of the eligibility requirements to participate in programs of the Department of Agriculture; and

(2) receive technical support and assistance from the Department to participate in the programs.

Mr. HARKIN. I am pleased to cosponsor this legislation introduced by the Democratic leader, Senator DASCHLE. The bill contains a number of important features that constitute a strong start for our work toward a new farm bill.

In particular, I want to call attention to the provisions in this bill that will address directly the rapid changes occurring in the structure of our food and agriculture industry and the impact those changes are having on America's farm and ranch families and rural communities. This bill will give USDA new authority to deal with economic concentration and consolidation in agriculture: to prevent mergers and acquisitions that damage farmers and rural communities and to prevent and take enforcement action against anti-competitive and unfair practices in dealings by agribusinesses with farmers.

The legislation also incorporates legislation I introduced in the previous Congress to establish new protections for agricultural producers who are involved in contracting arrangements with agribusiness processors and to establish new protections that will enhance the ability of agricultural producers to form associations to bargain effectively with processors and buyers of agricultural products.

I am also pleased that this bill incorporates my legislation to create a new fund that will spur new equity capital investment in rural areas. The legislation has the support of a wide range of the key interested parties in providing and boosting financing and business investment in rural America. Clearly, if rural America is to grow, and if agricultural producers are to develop new value-added businesses, there will have to be increased levels of equity capital investment in agricultural processing and other businesses. This bill will go a long way in putting more investment capital into rural communities.

This bill also makes a strong start toward improving the shortcomings of the commodity program provisions of the current farm bill. We have all observed the critical need for emergency assistance packages to shore up the Freedom to Farm bill over the past several years. But our farm families and rural communities need a predictable and dependable system of farm income protection. This bill would provide for loan rates that are more realistic in light of current production costs in order to improve the farm income protection. It focuses on providing better assistance when it is needed, rather than simply making additional fixed payments regardless of actual market conditions.

As I said, I believe the marketing assistance loan rate provisions in this bill are a strong start. We recognize that under the current formula, even without the existing loan rate caps, the marketing loan rates would have declined quite substantially as market prices suffered in recent years. That means a less effective system of farm income protection. However, further work and discussion on loan rate formulas and program details will be necessary as we work further on the next farm bill. In particular, it is important that the relative loan rates among the various commodities are in balance. Of course, that is the main objective of these provisions: to bring other loan rates into reasonable equivalence with the loan rates for oilseeds. But we do not want to create any new inequality while trying to address what is now felt to be an imbalance.

It is also important for us to contemplate the consequences of any changes in loan rates that we may ultimately enact, including any impacts on production levels and patterns, and impacts on the relative benefits under the program for family-size farms in comparison with those for much larger operations. For that reason I believe that there must be some restriction or limitation on the quantity of production that is eligible for higher loan rates. Otherwise, I am concerned that we are providing only a small amount of help to family-size farms, but far more to their larger and already better capitalized neighbors simply because those larger farms are producing larger quantities of loan-eligible commodities. Similarly, if the loan rate is increased for every unit of production of a given commodity on every farm, no matter how large, we must consider the incentives for higher production that will be put into markets that are in surplus.

The commodity provisions are, of course, only one part of a comprehensive approach to a new farm bill. I very strongly believe that the next farm bill should include a new program of incentives for farm and ranch conservation practices. In this way we will improve farm income while also enhancing conservation of natural resources for our children and succeeding generations. I am not proposing a substitute for existing conservation programs, nor am I proposing to abandon commodity and farm income protection programs. But I believe that we can accomplish a great deal by adding to our farm policy a new conservation incentive program.

Again, I am pleased to cosponsor this bill and look forward to working with my colleagues to work further together on crafting a new farm bill.

By Mr. HAGEL (for himself, Ms. LANDRIEU, Mr. BREAUX, Mr. DEWINE, Mrs. HUTCHISON, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, and Mr. THOMAS):

S. 22. A bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes; to the Committee on Rules and Administration.

OPEN AND ACCOUNTABLE CAMPAIGN FINANCING ACT OF 2001

Mr. HAGEL. Mr. President, today, I join several of my colleagues, including the Presiding Officer, in introducing the Open and Accountable Campaign Financing Act of 2001, S. 22. I am pleased to be joined by not only the Presiding Officer, my new colleague from Nebraska, but also by Senators LANDRIEU, BREAUX, DEWINE, HUTCHISON, SMITH of New Hampshire, and THOMAS, in introducing this legislation today.

I also want to acknowledge the two Senators who have led the fight on campaign finance reform over the years—JOHN MCCAIN and RUSS FEINGOLD. Their commitment to this issue and leadership has elevated the debate on this very important part of our democratic system. They deserve recognition and they deserve credit.

Mr. President, S. 22 has three primary components, as you know. First, it expands and codifies disclosure for candidates, political parties and all organizations and individuals who participate in the political process.

Second, it caps and regulates soft money donations to the National political parties.

Third, it increases hard money contribution limits and then indexes these limits to inflation for future years.

Our Federal campaign finance system is broken. As all of us know, in politics, as in life, perception is an important dynamic of reality. The American people's perception of the integrity of our political system is directly connected to their confidence in the system. Americans see a political system controlled by special interests and those able to pump in millions of unaccountable dollars.

As our citizens become demoralized and detached because they feel they are powerless, they lower their expectations and standards for government and our officeholders. As a result, the American people are losing confidence in our system. They are losing trust in their elected officials. We need to fix the system.

The Senate will engage in an open, honest and wide-ranging debate on campaign finance reform this year, as it should be.

The debate must be thoughtful, factual and deliberate. Any legislative action will have immense consequences for our political system and all who participate in it. S. 22 represents a strong, bipartisan foundation from which consensus can be built and real campaign finance reform can be established.

Our bill is imperfect. It does not address all of the issues. It does not have all of the answers. But it is a genuine attempt to bring about real reforms, including greater disclosure and more accountability. Greater disclosure, I believe, is the heart of campaign finance reform. We should not fear an educated and informed body politic. We should encourage it.

In recent years, so-called independent groups and individuals have played and increasingly dominant role in the political process launching late TV blitzes, moving poll numbers in the final weeks and days of a campaign, and then disappearing without the public ever knowing who they were and how much they spent for or against the candidate.

There are several provisions in S. 22 that will increase the disclosure of campaign financing and election activity. But the most significant is the provision affecting what information is made public regarding political broadcast ads, especially ads referred to as issue advocacy ads.

Issue advocacy adds generally refer to a Federal candidate and his or her positions on issues, but since the ads do not expressly advocate the election or defeat of a Federal candidate, they don't trigger the reporting and disclosure requirements of the Federal Election Campaign Act. Even though these ads don't expressly advocate for or against any candidate, many people consider the clear intent of these ads, which is to influence the outcome of elections.

Our legislation addresses the problems associated with the disclosure of these issue ads by requiring disclosure of the relevant information at the broadcast stations who broadcast these ads both on radio and TV.

Currently, broadcast stations must comply with Federal communications regulations requiring them to place in their public file information on ads run by Federal candidates and political parties. This includes a record of the times the spots are scheduled to air, the overall amount of time purchased, and at what rates, and the names of the officers of the organization placing the ad.

However, presently, there is no requirement that any of this information be placed in the public file for political ads run by independent organizations or individuals. Our legislation will codify these regulations and expand them to cover all political broadcast ads without violating anyone's constitutional rights. Under this bill, the American public and the media will know who is buying these ads and how much they are spending for the ads.

Also, let me make clear one thing this provision does not do. It does not require organizations to identify individual donors or provide membership lists. It preserves a reasonable balance between the public's right to know and the privacy rights of members and donors.

In addition to increased disclosure, this legislation regulates and caps soft money donations. It limits individuals, independent organizations, corporations, and unions, to an aggregate of $60,000 per year in soft money contributions to the national political parties. These donations are disclosed at the Federal Election Commission.

We already have constitutionally tested limits on hard money. Political parties have to deal with this. These contributions are reported from the political parties and from the candidates and their campaigns. We should look at placing limits on soft money contributions as well.

This legislation also adjusts the hard money, or Federal contributions, that is are already fully disclosed to and regulated by the Federal Election Commission.

Currently, an individual contribution limit is now set at $1,000. That limit was originally set in 1974. Our legislation would move that current $1,000 limit to $3,000 per candidate per election. Indexed to inflation, today a 1974 $1,000 contribution is worth $3,000. In future years, all individual limits would be indexed to inflation. This would have a positive effect on the system because more campaign money would go directly to the candidates, where there is the most disclosure and accountability.

Any legislation to reform America's campaign finance system needs to reverse the sharply rising trend of moneys going outside the reportable system toward unaccountable, independent groups and individuals who do not report, who are not required to report or disclose. That trend has been more and more away from the candidates in the political parties.

We must also ensure that any campaign finance reform genuinely improves the system and doesn't result in unintended consequences that actually make it worse. The challenge in reforming our campaign finance system to do so without infringing upon the constitutional rights of Americans to freely express themselves under the first amendment and the guarantees of equal protection under the law in the fifth amendment.

Any effort, no matter how well-intentioned, that doesn't pass constitutional muster will be an effort in futility, adding further to the erosion of public confidence in our system. Congress has an opportunity this year to pass a relevant and responsible campaign finance reform bill that the President will sign.

My colleagues and I will be fully engaged in this debate this year with the ultimate goal of making our campaign finance system more open and accountable—the essence of any reform.

Mr. LOTT (for Mr. SPECTER):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

THE NEW URBAN AGENDA ACT OF 2001

Mr. SPECTER. Mr. President. I have sought recognition to introduce legislation that will address the plight of our nation's cities. With 80 percent of the U.S. population living in metropolitan areas, there is an urgent need to improve our urban economies and the quality of life for the millions of Americans who live and work in cities. By simply making our cities an appealing place to live, work, and visit, urban areas can rebound to the vibrant economic centers they once were.

There is a common perception that most urban areas are abandoned and stripped of their resources, burdened with poverty and crime. However, cities have a wealth of resources available to not only the urban dweller, but to cultural centers, business hubs, and some of the finest educational and medical institutions. The real problem is that we do not draw upon these riches or strive to better coordinate them to serve people, especially those in need.

My proposal, the ''New Urban Agenda Act of 2001,'' is based on legislation which I have endeavored to enact into law since the 103rd Congress. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budgetary constraints which govern our actions in Congress. This bill, based in significant part on suggestions by Former Philadelphia Mayor Edward G. Rendell and the League of Cities as well as current Philadelphia Mayor John Street and Pittsburgh Mayor Tom Murphy, offers aid to the cities while containing federal expenditures and re-instituting important cost-effective tax breaks.

Urban areas remain integral to America's greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation's poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

With that in mind, I am pleased that Congress recognized included an initiative to aid our cities in the fiscal year 2001 Omnibus Appropriations Act. This initiative provides important incentives for businesses to invest and locate in our nation's cities by stimulating new private capital investments in economically distressed communities, expanding empowerment zones, increasing the low income housing tax credit, creating new market venture capital firms, and creating 40 Renewal Communities, which will provide additional key incentives to spur investment. I am particularly pleased that a close variation of a provision from my Urban Agenda bill was included as part of this initiative, which will provide a 60 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. A targeted capital gain will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas. While all of these initiatives are an important first step in assisting our cities, I believe that there is still more that needs to be accomplished to revitalize America's metropolitan areas.

If we are to address many of the serious social issues that we face—unemployment, drug abuse, juvenile violence, welfare dependency, and other pressing issues—we cannot give up on our cities. We must continue to develop new strategies for dealing with the problems of urban America. The days of creating ''Great Society'' federal aid programs are clearly past, but that is no excuse for the national government to ignore the problems of the cities.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had discovered few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods. What my Republican colleagues saw in Philadelphia is the urban rule across our country, not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to many in America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation as a whole and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America prospers and vice-versa. For example, if cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

There is indeed a domino effect from our cities to rural communities throughout the country. Lately, we have witnessed this in the violent behavior of adolescents. School violence, juvenile crime and drug abuse are no longer endemic to urban living. Take the Bloods and the Crips gangs from Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi, Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike. Additionally, while drug abuse among teens has historically been viewed solely as an inner city problem, recent statistics indicate that teen drug abuse in the suburbs is an increasing epidemic. According to an October 10, 1999 Philadelphia Inquirer article, in the seven county Philadelphia suburbs, the rate of youths in treatment for heroin jumped from 77 to 84 per 100,000 people between 1995 and 1998. In the Baltimore suburbs, 25 percent of teens admitted to drug treatment centers used heroin compared to 17 percent in inner city Baltimore.

In the U.S. Department of Housing and Urban Development's 2000 report on the ''State of the Cities,'' findings show that large urban schools still deal with a higher concentration of violence, and the data only represents crimes which were serious enough to report to the police. An estimated 3 million crimes each year are committed in or near the nation's 85,000 public schools. During the 1996–97 school year alone, one-fifth of public high schools and middle schools reported at least one violent crime, such as murder, rape or robbery. More than half reported less serious crimes. Homicide is now the third leading cause of death for children age 10 to 14. For more than a decade it has been the leading cause of death among minority youth between the ages of 15 and 24. The School District of Philadelphia's most recent report on school violence shows that in the 1994–1995 academic year, students, teachers and administrators were the victims of 2,147 reported criminal incidents, up by almost 100% from the previous year. These included assault, robbery, rape, and students being stabbed or even shot. The school district also reported troubling news about abysmal attendance rates. On any given day, more than one in every four students are absent.

In an effort to seriously address the problem of youth violence, during the summer of 1999, I convened three extensive roundtable discussions with experts from the Department of Education, Health and Human Services, Labor and Justice, who administer programs targeted at children from prenatal to age seventeen. On June 7, 1999, I chaired a discussion session on at-risk youth as part of the White House Conference on Mental Health. As a result of these meeting, $911 million in

fiscal year 2000 and $1.6 billion in fiscal year 2001 have been reallocated across government agencies to tackle the problem of youth violence, focusing on the Safe and Drug Free Schools Program, mental health services for children, character education, and literacy programs. These programs pick up on the conclusion that Surgeon General Koop made in 1982—that juvenile violence is a national health problem.

I am pleased to note that the HUD 2000 ''State of the cities'' report found that the national poverty rate declined from 13.7% in 1996 to 12.7% in 1998. Encouragingly, the poverty rate also decreased in central cities during this same period from 19.6% to 18.5%. However, despite the dramatic record of job gains, one in eight cities still faces high unemployment and significant population loss or high poverty rates. The report further found that the overall poverty rate in the cities remains twice that of the suburbs. In fact, there are 67 large cities that have an unemployment rate of 50% or higher than the U.S. rate. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter with several Senators to then-Majority Leader Dole and Speaker Gingrich which recommended several new urban initiatives to spur job creation and economic growth in our cities such as a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit. In 1998, I introduced the ''Job Preparation and Retention Training Act,'' which was included in the Workforce Development act of 1998. My legislation authorized funding for States to enroll long-term welfare dependents into a training program to provide the necessary skills to locate and maintain gainful and unsubsidized employment.

A number of jobs are becoming available in the high tech industry and high tech growth is a substantial contributor to recent economic gains in cities. According to the HUD 2000 ''State of the Cities'' report, high tech jobs account for 27% of new employment in cities. However, there is anew digital divide in high tech jobs between cities and suburbs. High tech job growth in suburbs is 30% faster than that of cities. In effort to bridge the digital divide, I was an original cosponsor with Senator Biden of the ''Kids 2000'' legislation, which would authorize $120 million to build computer technology centers in Boys and Girls Clubs nationwide and allow the funds to be used to pay for computer teachers, who are crucial to the success of this initiative. The federal funds would be complemented by donations from private sources. I have also been supportive of collaborative efforts like PowerUp, founded by America Online (AOL) Chief Executive Steve Case, which joins non-profit organizations, major corporations, and Federal agencies to help close the digital divide. The goal of this initiative is to help ensure that America's underserved youth acquire the skills, experiences, and resources they need to succeed in the digital age. Initiatives like Kids 2000 and PowerUp are steps in the right direction to provide American children with the skills necessary to compete in an increasingly technologically-advanced workforce. These initiatives offer training for those segments of the American population which currently have no opportunity to learn these technology-based skills, and thus offer extraordinary employment and earning possibilities.

Each day, small business owners question whether they should remain in the city because they fear for the safety of their children, their employees, and, ultimately, their businesses. I have personally met and spoken with shop owners in the University City section of Philadelphia who tell me that they look desperately for reasons to stay, but it gets harder and harder.

I have long supported efforts to encourage the growth of small business, as small businesses provide the bulk of the jobs in this country. To that end, I am again introducing legislation to provide targeted tax incentives for investing in small minority or women-owned businesses called ''Minority and Women Capital Formation Act.'' Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to continue to provide employment opportunities, but continue to face difficulty in obtaining the necessary capital. My legislation would help remove the capital access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

The economic problems our cities are facing are not easy to deal with or answer. Municipal leaders stress many of the same concerns that business people have voiced. Additionally, in a report by the National League of Cities entitled ''City Fiscal Conditions in 1996,'' municipal officials from 381 cities answered questions on the economic state of their cities. The report found that 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment due to state budgetary problems. Nearly six out of ten cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy, and it often counteracts municipal efforts to retain residents or businesses.

One issue in particular that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Waiters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee, stated that in 1950, 23 percent of American's lived outside central cities; by 1998, that number rose to 46 percent. The District of Columbia's population loss is among the worst in the nation, with a quarter of its population relocating to the suburbs since the 1970s. This trend of shrinking urban populations gives no sign of ending. Middle-class families continue to leave for the suburbs where there are typically better public services. According to the September 2000 General Accounting Office Report on Community Development, over 50 percent of U.S. cities reported that an inadequate tax base for supporting schools and services was among their top four growth related challenges. As America's cities struggle with the exodus of residents, businesses and industry, city, residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance.

The September 2000 General Accounting Office Report on Community Development also found that of the 2000 cities surveyed, 83 percent reported that revitalizing their downtown areas was their top priority. The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. As a member of the Transportation Appropriations Subcommittee, I have been a strong supporter of public transit, which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate out nation's cities so they can once again become economically productive areas providing promising opportunities for residents and neighboring areas. To address the need for reliable transportation systems in our nation's cities and to provide access to jobs for city residents, I introduced reverse commute and jobs access legislation, which was successfully included in the 1998 ''TEA–21'' highway and transit reauthorization bill. The bill authorized over five years access-to-jobs transit grants targeted at low-income individuals. Up to $10 million per year may be used for reverse commute projects to move individuals from cities to suburban job centers.

In addition to support for infrastructure, I believe there are many other opportunities for Congress to assist the America's urban areas. Over the past few years, I have worked with Former Mayor Ed Rendell to develop a legislative package which contains many good ideas. I have taken many of these suggestions and have since added and revised provisions to take into account new developments at the federal, state and local levels to create the ''New Urban Agenda Act of 2001.''

First, recognizing that the federal government is the nation's largest purchaser of goods and services, my legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones, Enterprise Communities and Renewal Communities. Similarly, my bill would required that no less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones, Enterprise Communities and Renewal Communities. The General Services Administration would be required to submit to Congress its assessment of the extent to which federal agencies are committed to this policy, and in general, economic revitalization in distressed urban areas.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of all federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Relief Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to businesses to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects. According to the September 2000 GAO Report on Community Development, 32 percent of cities and 22 percent of counties surveyed strongly supported the extension of federal tax benefits to the rehabilitation of historic residential properties. The City of Philadelphia reports that there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit, which was eliminated in 1986. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs. Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the Historic Rehabilitation Tax Credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to the City of Philadelphia, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector and industrial parks. My bill would also increase the small issue exemption, which provides a way to help finance private activity in the building of manufacturing facilities from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I understand that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

A fourth provision of this legislation provides needed reforms to regulations and the financial challenges to obtaining affordable housing. My proposal provides language to study streamlining federal housing program assistance to urban areas into a block grant form so that municipal agencies can better serve local residents. Safe, clean, and affordable housing is not widely available to most low income families. According to the National Housing Law Project, in 1996, only one in four families was eligible to receive HUD assistance with a waiting period up to five years. This provision of the bill steers the Secretary of Housing and Urban Development to take a hard look at these conditions and determine what works and what does not in federally-subsidized housing and to consider alternatives that will provide suitable homes for America's families.

I believe that as a nation we should work toward providing individuals and their families with more opportunities for home ownership which stabilizes a community and restores our cities. Urban home ownership, including middle-income home ownership, lags behind the suburbs. According to the Harvard University Joint Center for Housing Studies, city residents of all income levels are less likely to own a home than suburban residents with similar incomes. I hear time and time again from families starting out that they move out to the suburbs for better schools, because central cities lack the property tax base to provide a quality education. Home ownership is key to saving our cities, both socially and economically. A 1998 Fannie Mae national housing survey indicated that even though home ownership rates continued to increase in the late 1990s, six in every ten renters said that buying a home was a very important priority, if not their number-one priority in life. Yet for so many families financial barriers make that dream unattainable. That is why my legislation includes two provisions to restore the American dream of home ownership.

First, my bill would amend the National Affordable Housing Act and the Community Development Block Act of 1974 to make municipal employees such as policemen, firemen, maintenance workers and teachers eligible for home ownership assistance. Municipal employees and teachers contribute to the health, safety and vitality of the communities in which they serve. However, escalating rent and housing prices due to the booming technology market and rising salaries have made it particularly difficult for teachers, police officers and city workers to live where they work. In a growing number of metropolitan areas, home buyers who make the median income in their region cannot afford its median-priced housing, and therefore, must live outside the community in which they work, resulting in longer commutes. According to the September 2000 GAO Report, the shortage of funding for affordable housing in urban areas has forced people to move to the fringes of

metropolitan areas, where housing is typically less expensive. This provision would seek to remedy this situation by providing communities with the tools needed to increase home ownership opportunities for those who form the backbone of our cities and who are an integral component of our commitment to revitalize our urban areas.

Second, my bill would provide a tax credit for income-eligible individuals and families to purchase homes in distressed areas. In the 1999 Taxpayer Relief Act, Congress approved such a tax credit for home buyers in the District of Columbia. While single family home sales can be attributed to a multitude of factors, such as historically low interest rates and a strong economy, it is important to note some interesting statistics related to home ownership since enactment of the tax credit in the District of Columbia. The Home Purchase Assistance Program through the District of Columbia's Office of Housing and Community Development helped 410 families purchase homes. Further, a group called the ''Washington Partners for Home ownership,'' a collaboration of realtors, banks, community and faith-based organizations, set a goal last year to create 1,000 new homeowners in the District of Columbia for each of the next three years. Remarkably, the Washington Partners reached that goal before the end of the first year. I believe that this country will reap extraordinary benefits if we expand such a credit on a national basis, as I propose in the ''New Urban Agenda Act of 2001.''

I believe that the revitalization of cities will require social and economic facets, but is also imperative that our cities are safe and clean. This last component of my bill helps urban areas to address their unique environmental challenges and reforms Superfund law. First, the legislation authorizes a federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban and other areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law. My legislation would make this a permanent program and substantially increase the funding levels to a $100 million authorized level for Fiscal Year 2002, $105 million for Fiscal Year 2003, and $110 million for Fiscal Year 2004. The EPA could expend funds to identify and examine potential idle or underused Brownfield sites and to provide grants to States and local governments of up to $200,000 per site to put them back to productive use. One such grant has been used to great success to Pittsburgh Mayor Tom Murphy, and I hope this provision will generate additional success stories of redeveloping urban brownfields.

The Brownfields Program allows sites with minor levels of toxic waste to be cleaned up by State and local governments with federal and other funding sources. Companies and individuals who are interested in developing land into industrial, commercial, recreational, or residential use are often reluctant to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage redevelopment of otherwise unusable property.

My bill would also waive federal liability for persons who fully comply with a state cleanup plan to clean sites in urban or other areas pursuant to state law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania are often stifled because the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the state cleanup, the federal government impedes the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation's urban areas.

Mr. President, we must take a comprehensive approach to reversing urban decay. My bill seeks to accomplish this by requiring increased federal and foreign aid purchases operating in urban zones, a restoring of the issuance of tax free industrial development bonds, facilitating home ownership in urban areas, and providing regulatory relief to redevelop brownfield sites. As one of a handful of United States Senators who lives in a big city, I have a special understanding of both the problems and the promise of urban America. I am committed to a new urban agenda which relies on market forces, not a welfare state, for urban revitalization. While the issues facing our nation's cities are indeed difficult, working together with my colleagues I believe we can fashion a strong plan of action to help cities face their pressing problems.

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

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

S. 23

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 ''New Urban Agenda Act of 2001''.

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

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES

''SEC. 40. (a) MINIMUM PURCHASE REQUIREMENT.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or renewal communities.

''(b) RECYCLED PRODUCTS.—To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or renewal communities.

''(c) REGULATIONS.—The Federal Acquisition Regulation shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a).

''(d) DEFINITIONS.—In this section:

''(1) The term 'empowerment zone' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(2) The term 'enterprise community' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(3) The term 'renewal community' means a community designated as a renewal community pursuant to subchapter X of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1400E et seq.).''.

(b) GSA ASSESSMENT.—(1) Not later than December 31, 2001, the Administrator of General Services shall submit to Congress, in writing, the Administrator's assessment of the extent to which executive agencies are committed, by policy and practice, to encouraging and supporting economic renewal in empowerment zones, enterprise communities, and renewal communities.

(2) In this subsection, the term ''executive agency'' has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(c) EFFECTIVE DATE.—Section 40 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 2001.

(d) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

''Sec. 40. Purchases from businesses in empowerment zones, enterprise communities, and renewal communities.''.

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE FOR PURCHASE OF CERTAIN UNITED STATES GOODS.

(a) ALLOCATION OF ASSISTANCE.—Notwithstanding any other provision of law, effective beginning with fiscal year 2002, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or renewal communities within the United States.

(b) UNITED STATES ASSISTANCE.—As used in this section, the term ''United States assistance'' means—

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);

(2) sales or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center under subsection (c)(11) of section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or renewal communities.

(b) FINANCIAL ASSISTANCE.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under such section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and renewal communities as the Secretary determines appropriate in order to ensure the continuing existence of such centers in such zones and communities.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) DEFINITIONS.—In this section:

(1) DISTRESSED URBAN AREA.—The term ''distressed urban area'' means a city having a population of more than 100,000 that, as determined by the Secretary of Housing and Urban Development, meets the qualifications for making an urban development action grant to a community experiencing severe economic distress established for large cities and urban counties under subpart G of part 570 of title 24, Code of Federal Regulations (as in effect on April 1, 1998).

(2) EXECUTIVE AGENCY.—The term ''Federal agency'' means an Executive agency (as defined in section 105 of title 5, United States Code).

(3) FACILITY.—The term ''facility'' means any place where employees of a Federal agency are regularly employed.

(b) PREFERENCE.—Notwithstanding any other provision of law, in determining the location for the construction of a new facility of an Executive agency, in determining to improve an existing facility, or in determining the location to which to relocate functions of an Executive agency, the head of the Federal agency making the determination shall make best efforts to construct or improve the facility or to relocate the functions in a distressed urban area.

(c) URBAN IMPACT STATEMENT.—A determination to construct a new facility of an Executive agency, to improve an existing facility, or to relocate the functions of an Executive agency shall not be made until the head of the Executive agency making the determination submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least 1 distressed urban area that would be an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and use of the facility in the distressed urban area, including the effects of the construction and use on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least 1 facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and use of the facility located in the distressed urban area as an alternative location for the facility to be improved, including the effect of the improvement and use of the facility on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and continuing use of the facility in the distressed urban area, including the effect of the improvement and continuing use on the rate of unemployment in the distressed urban area; and

(B) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation; or

(4) in the case of a relocation of functions—

(A) identifies at least 1 distressed urban area that would serve as an appropriate location for the carrying out of the functions;

(B) describes the costs and benefits arising from carrying out the functions in the distressed urban area, including the effect of carrying out the functions on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year

period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of such closure or consolidation.

(d) APPLICABILITY TO DEPARTMENT OF DEFENSE FACILITIES.—The requirements set forth in subsections (b) and (c) shall not apply to a determination to construct or improve a facility of the Department of Defense, or to relocate any functions of the Department of Defense, if the President determines that the waiver of the application of the requirements to that facility or relocation is in the national interest.

SEC. 105. DEFINITIONS.

As used in this title:

(1) The term ''empowerment zone'' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term ''enterprise community'' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term ''renewal community'' means a community designated as a renewal community pursuant to subchapter X of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1400E et seq.).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT UNDER PASSIVE ACTIVITY LIMITATIONS.

(a) GENERAL RULE.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

''(2) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

''(B) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $25,000, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 47) to which paragraph (1) applies after the application of subparagraph (A).

''(C) $55,500 LIMIT FOR REHABILITATION CREDITS.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 47—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $55,500, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies for the taxable year after the application of subparagraphs (A) and (B).

''(3) ADJUSTED GROSS INCOME.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

''(A) any amount includable in gross income under section 86,

''(B) any amount excludable from gross income under section 135, 911, 931, or 933,

''(C) any amount allowable as a deduction under section 219, and

''(D) any passive activity loss.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 469(i)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amounts under paragraphs (2)(A) and (2)(B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount of the exemption under paragraph (1) (determined without regard to the reduction contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.''.

(2) Subparagraph (A) of section 469(i)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following new clauses:

''(i) '$12,500' for '$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

''(ii) '$50,000' for '$100,000' in paragraph (2)(A)'', and

''(iii) '$27,750' for '$55,500' in paragraph (2)(C)(ii).''.

(3) The subsection heading for subsection (i) of section 469 of such Code is amended by striking ''$25,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of enactment of this Act, in taxable years ending on or after such date.

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—

''(A) IN GENERAL.—In the case of the rehabilitation investment tax credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) for purposes of applying paragraph (1) to such credit—

''(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the rehabilitation investment tax credit).

''(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A)(ii)(I), the minimum tax offset amount is an amount equal to—

''(i) in the case of a taxpayer not described in clause (ii), the lesser of—

''(I) 25 percent of the tentative minimum tax for the taxable year, or

''(II) $20,000, or

''(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

''(C) REHABILITATION INVESTMENT TAX CREDIT.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 47.''.

(b) CONFORMING AMENDMENT.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR REHABILITATION CREDIT.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.''.

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

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) FACILITY BONDS.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

''(13) sports facilities,

''(14) convention or trade show facilities,

''(15) freestanding parking facilities,

''(16) air or water pollution control facilities, or

''(17) industrial parks.''.

(2) INDUSTRIAL PARKS DEFINED.—Section 142 of such Code is amended by adding at the end the following new subsection:

''(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

''(1) is—

''(A) land, and

''(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

''(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 147(c) of such Code (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR INDUSTRIAL PARKS.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting '50 percent' for '25 percent'.''.

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking ''A private activity bond'' and inserting ''Except in the case of a bond described in section 142(a)(13), a private activity bond''.

(b) SMALL ISSUE BONDS.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination of qualified small issue bonds) is amended—

(1) by striking ''any bond'' in subparagraph (A)(i) and inserting ''any bond described in subparagraph (B)'',

(2) by striking ''a bond'' in subparagraph (A)(ii) and inserting ''a bond described in subparagraph (B)'', and

(3) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) BONDS FOR FARMING PURPOSES.—A bond is described in this subparagraph if it is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property not in accordance with section 147(c)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2000.

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) IN GENERAL.—Clause (i) of section 144(a)(4)(A) of the Internal Revenue Code of

1986 (relating to $10,000,000 limit in certain cases) is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(b) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) IN GENERAL.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

''(ii) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retainage) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code (relating to available construction proceeds) is amended by striking ''2-year period'' and inserting ''3-year period''.

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code (relating to election to pay penalty in lieu of rebate) is amended by striking '', with respect to each 6-month period after the date the bonds were issued,'' and '', as of the close of such 6-month period,''.

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking ''to any 6-month period'' in the matter preceding subclause (I).

(5) Clause (ii) of section 148(c)(2)(C) of such Code (relating to bonds used to provide construction financing) is amended by striking ''2 years'' and inserting ''3 years''.

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

SEC. 206. QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS PARTIALLY EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) the following new paragraph:

''(5) 75 percent of any exempt facility bond issued as part of an issue described in section 142(a)(7) (relating to qualified residential rental projects).''.

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

SEC. 207. EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.

(a) INCREASE IN PERCENTAGE.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking ''40 percent'' and inserting ''50 percent''.

(b) FIRST 3 YEARS OF WAGES SUBJECT TO CREDIT.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended—

(1) in subsections (a) and (b)(3), by striking ''first-year''; and

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year—

''(A) with respect to an individual who is a member of a targeted group, and

''(B) attributable to service rendered by such individual during the 3-year period beginning with the day the individual begins work for the employer.''; and

(B) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of enactment of this Act.

SEC. 208. HOMEBUYER CREDIT FOR EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) IN GENERAL.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 1395. HOMEBUYER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who purchases a principal residence in an empowerment zone or enterprise community during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this subsection and subsection (d)) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the credit so allowable as—

''(i) the excess (if any) of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $70,000 ($110,000 in the case of a joint return), bears to

''(ii) $20,000.

''(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) PURCHASE PRICE LIMITATION.—A credit shall not be allowed under subsection (a) with respect to the purchase of a residence the purchase price of which exceeds $225,000.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) ALLOCATION OF DOLLAR LIMITATION.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

''(B) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

''(2) PURCHASE.—

''(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

''(i) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

''(ii) the basis of the property in the hands of the person acquiring it is not determined—

''(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(II) under section 1014(a) (relating to property acquired from a decedent).

''(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

''(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date such residence is purchased.

''(f) REPORTING.—If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

''(g) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

''(h) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(i) APPLICATION OF SECTION.—This section shall apply to property purchased after December 31, 2001, and before January 1, 2005.''.

(b) APPLICATION TO RENEWAL COMMUNITIES.—Part III of subchapter X of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 1400K. HOMEBUYER CREDIT.

''For purposes of section 1395, a renewal community shall be treated as an empowerment zone.''.

(c) CONFORMING AMENDMENTS.—

(1) Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended to read as follows:

''PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.''.

(2) The table of parts of subchapter U of chapter 1 of such Code is amended to read as follows:

''Part II. Incentives for empowerment zones and enterprise communities.''.

(3) The table of sections of part II of subchapter U of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1395. Homebuyer credit.''.

(4) The table of sections of part III of subchapter X of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1400K. Homebuyer credit.''.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(A) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(i) provides assistance on an annual basis;

(ii) maximizes funding certainty and flexibility; and

(iii) minimizes paperwork and delay; and

(B) the possibility of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(2) PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall consider data from and assessments of the demonstration program conducted under section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, 110 Stat. 1321).

(b) REPORT TO COMPTROLLER GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

(c) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and

(2) any recommendations for legislation.

SEC. 302. HOMEOWNERSHIP FOR MUNICIPAL EMPLOYEES.

(a) ELIGIBLE ACTIVITIES.—Section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)) is amended to read as follows:

''(2) is the principal residence of an owner who—

''(A) is a member of a family that qualifies as a low-income family—

''(i) in the case of a contract to purchase existing housing, at the time of purchase;

''(ii) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

''(iii) in the case of a contract to purchase housing to be constructed, at the time the contract is signed; or

''(B)(i) is a uniformed employee (which shall include policemen, firemen, and sanitation and other maintenance workers) or a teacher who is an employee of the participating jurisdiction (or an agency or school district serving such jurisdiction) that is investing funds made available under this subtitle to support homeownership of the residence; and

''(ii) is a member of a family whose income, at the time referred to in clause (i), (ii), or (iii) of subparagraph (A), as appropriate, and as determined by the Secretary with adjustments for smaller and larger families, does not exceed 115 percent of the median income of the area;''.

(b) INCOME TARGETING.—Section 214(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(2)) is amended by inserting before the semicolon the following: ''or families described in section 215(b)(2)(B)''.

(c) ELIGIBLE INVESTMENTS.—Section 212(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(b)) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, in the case of homeownership assistance for residences of owners described in section 215(b)(2)(B), funds made available under this subtitle may only be invested (A) to provide amounts for downpayments on mortgages, (B) to pay reasonable closing costs normally associated with the purchase of a residence, (C) to obtain pre- or post-purchase counseling relating to the financial and other obligations of homeownership, or (D) to subsidize mortgage interest rates.''.

SEC. 303. COMMUNITY DEVELOPMENT.

(a) ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)), is amended—

(1) in paragraph (22)(C), by striking ''and'' at the end;

(2) in paragraph (23), by striking the period at the end and inserting a semicolon;

(3) in paragraph (24), by striking ''and'' at the end;

(4) in paragraph (25), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(26) provision of direct assistance to facilitate and expand homeownership among uniformed employees (including policemen, firemen, and sanitation and other maintenance workers) of, and teachers who are employees of, the metropolitan city or urban county (or an agency or school district serving such city or county) receiving grant amounts under this title pursuant to section 106(b), or the unit of general local government (or an agency or school district serving such unit) receiving such grant amounts pursuant to section 106(d), except that, notwithstanding section 102(a)(20)(B) or any other provision of this title, such assistance may be provided on behalf of such employees whose family incomes do not exceed 115 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, and except that such assistance shall be used only for acquiring principal residences for such employees by—

''(A) providing amounts for downpayments on mortgages;

''(B) paying reasonable closing costs normally associated with the purchase of a residence;

''(C) obtaining pre- or post-purchase counseling relating to the financial and other obligations of homeownership; or

''(D) subsidizing mortgage interest rates.''.

(b) PRIMARY OBJECTIVES.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following:

''(5) HOMEOWNERSHIP ASSISTANCE FOR MUNICIPAL EMPLOYEES.—Notwithstanding any other provision of this title, any assisted activity described in subsection (a)(26) shall be considered, for purposes of this title, to benefit persons of low and moderate income and shall be directed toward the objective under section 101(c)(3).''.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 401. RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(o) RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.—

''(1) DEFINITION OF URBAN NONLISTED FACILITY.—In this subsection, the term 'urban nonlisted facility' means a facility that is not listed or proposed for listing on the National Priorities List.

''(2) ENFORCEMENT AUTHORITY.—Neither the President nor any other person may bring an administrative or judicial enforcement action under this Act with respect to an urban nonlisted facility against a person that has fulfilled all requirements applicable to the person under State and local law to conduct a response action at the urban nonlisted facility, as evidenced by a release from liability issued by authorized State and local officials, to the extent that the administrative or judicial action would seek to require response action that is within the scope of the response action conducted in accordance with State and local law.''.

SEC. 402. BROWNFIELD PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 128. BROWNFIELD PROGRAM.

''(a) DEFINITION OF BROWNFIELD FACILITY.—

''(1) IN GENERAL.—In this section, the term 'brownfield facility' means a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance.

''(2) EXCLUSIONS.—The term 'brownfield facility' does not include—

''(A) a facility that is the subject of a removal or planned removal under this title;

''(B) a facility that is listed or has been proposed for listing on the National Priorities List or that has been removed from the National Priorities List;

''(C) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

''(D) a land disposal unit with respect to which—

''(i) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(ii) closure requirements have been specified in a closure plan or permit;

''(E) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under—

''(i) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(ii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(iii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(iv) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

''(v) this Act;

''(F) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(G) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(b) BROWNFIELD PROGRAM.—

''(1) IN GENERAL.—There is established within the Environmental Protection Agency a brownfield program.

''(2) COMPONENTS.—Under the brownfield program, the Administrator may—

''(A) expend funds to examine, identify as brownfield facilities, and include in the brownfield program, idle or underused industrial and commercial facilities; and

''(B) provide grants to State and local governments to clean up brownfield facilities

and return brownfield facilities to productive use.

''(c) MAINTENANCE OF PREEXISTING BROWNFIELD PROGRAM.—In carrying out subsection (b), the Administrator shall maintain any brownfield program established by the Administrator before the date of enactment of this section.

''(d) MAXIMUM GRANT AMOUNT.—A grant under subsection (b)(2)(B) shall not exceed $200,000 with respect to any brownfield facility.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

''(1) $100,000,000 for fiscal year 2002;

''(2) $105,000,000 for fiscal year 2003; and

''(3) $110,000,000 for fiscal year 2004.''.

By Mr. LOTT (for Mr. SPECTER):

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 2001

Mr. SPECTER. Mr. President, as the 107th Congress commences, those of us elected to serve in the most evenly divided Senate and House in history recognize that whatever our parties' differences may be, we have a new opportunity to make a positive impact on the lives of the American people. The narrow margins in both legislative bodies offer us a chance to learn from the past, determine how best to respond to the challenges that are before us, and forge important alliances which will enable us to pass legislation important to this nation. I believe it is clear that one of our first priorities must be additional incremental reforms of our health care system.

There is no time to waste. Many of our nation's health care problems are getting worse, not better. In its April 2000 report, the Employee Benefit Research Institute (EBRI) analyzed the March 1999 Current Population Survey, a document generated yearly by the U.S. Census Bureau. EBRI's analysis tells us that in 1998, about 194.7 million working-age Americans derived their health insurance coverage as follows: approximately 65 percent from employer plans; 10.4 percent from Medicare and Medicaid within a total of 14.0 percent from public sources of coverage; and 7 percent from other private insurance. While this survey shows us where the insured are obtaining their coverage, it also details a troubling statistic: 43.9 million Americans, or 18 percent of Americans aged 18–64, were uninsured. While the rate of growth of the number of uninsured is slowing, our goal of actually reducing the number of people without access to health coverage and services remains clear.

As I have said many times, we can fix the problems felt by uninsured Americans without resorting to big government and without completely overhauling our current system, one that works well for most Americans—serving 81.6 percent of our non-elderly citizens. We must enact reforms that improve upon our current market-based health care system, as it is clearly the best health care system in the world.

Accordingly, today I am introducing the Health Care Assurance Act of 2001, which, if enacted, will take us further down the path of the incremental reforms started by the Health Insurance Portability and Accountability Act of 1996 (Kassebaum-Kennedy) and various health care provisions enacted during the 105th and 106th Congresses. I would note that the final version of Kassebaum-Kennedy contained many elements which were in S. 18, the incremental health care reform bill I introduced when the 104th Congress began on January 4, 1995.

The bill I am introducing today is distinct from my longstanding efforts regarding managed care reform. During the 105th and 106th Congresses, I joined a bipartisan group of Senators to introduce the Promoting Responsible Managed Care Act of 1998 and 1999, balanced proposals which would ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care.

The managed care debate, which aims to improve insurance coverage for those who already have it, stands in stark contrast to the Health Care Assurance Act of 2001. My bill is intended to provide access to insurance coverage for those who have never even had the option to purchase it—or who simply could not afford it—due to market constraints.

Given the importance of enacting this type of legislation, it is worth reviewing recent history which has taught us that bipartisanship is crucial in accomplishing any goal. In particular, the debate over President Clinton's Health Security Act during the 103rd Congress is replete with lessons concerning the pitfalls that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed to be the wisest course—to pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate's Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated in April 1993, during my attempts to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session. This bill incorporated moderate, consensus principles in a reasonable reform package. First, I attempted to offer the bill as an amendment to legislation dealing with debt ceilings. Subsequently, I was informed that the floor consideration of this bill would be structured in a way that precluded my offering an amendment. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 Emergency Supplemental Appropriations bill. To my dismay, then Majority Leader Mitchell, and Senator BYRD, then Chairman of the Appropriations Committee, worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the behemoth Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill, which I was pleased to cosponsor. When enough Senators sensed the growing frustration of the American people, we achieved a breakthrough in August 1996, and Kassebaum-Kennedy's vital health insurance market reforms were finally passed. There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care—such as increasing the ease of portability of health insurance coverage—but I continue to recognize that there is much more to be done. That bill's incremental approach to health care reform is what allowed it to generate bipartisan, consensus support in the Senate. We knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

I urge my colleagues to note a most important fact: the Kassebaum-Kennedy bill was enacted only after Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and Republicans abandoned their position that access to health care is not really a major problem in the United States that demands Federal action.

Perhaps the greatest recent example of the power of bipartisanship took place during the 105th Congress, with the passage of the Balanced Budget Act of 1997. This historic bipartisan agreement between Congress and the White House to balance the budget by 2002 extended the life of the vital Medicare hospital trust fund by ten years, while expanding needed benefits for seniors. The new law created a National Bipartisan Commission on the Future of Medicare to address the implications of the retirement of the Baby Boom generation, and marked the first balanced Federal budget in thirty years. This landmark accomplishment clearly would not have occurred without all members of Congress and the Administration crossing party lines, compromising, and doing what was right for the American people regardless of political affiliations.

Despite the historic nature of the Balanced Budget Act of 1997, however,

many providers, hospitals, home health agencies, and insurers argued that the cuts went too deep, and that patient access and care were being compromised. In both the 105th and 106th Congresses, I supported bipartisan efforts to carefully relieve and infuse additional dollars into areas which suffered too greatly from Medicare cuts, without upsetting the delicate balance of the budget.

We must realize that if we are to continue to be successful in meeting the nation's health care needs, the solutions to the system's problems must come from the political center, not from the extremes.

I have advocated health care reform in one form or another throughout my 18 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored S. 811, the Health Care for Displaced Workers Act of 1983, and S. 2051, the Health Care Cost Containment Act of 1983, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 31 health care bills that I have sponsored since 1983 is included for the RECORD.

During the 102nd Congress, I pressed the Senate to take action on the health care market issue. On July 29, 1992, I offered an amendment to legislation then pending on the Senate floor, which included a change from 25 percent to 100 percent deductibility for health insurance purchased by self-employed individuals, and small business insurance market reforms to make health coverage more affordable for small businesses. Included in this amendment were provisions from a bill introduced by the late Senator John Chafee, legislation which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. When then-Majority Leader Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, similar to an arrangement made on product liability legislation, which had been placed on the calendar for September 8, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102nd Congress. My July 29, 1992 amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992, when it was included in a Bentsen/Durenberger amendment which I cosponsored to broader tax legislation (H.R. 11). This amendment, which included essentially the same self-employed tax deductibility and small group reforms I had proposed on July 29th of that year, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, would have lowered the cost of health care through use of the most appropriate provider, and would have improved the quality of health care.

On January 21, 1993, the first day of the 103rd Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation was comprised of reforms that our health care system could have adopted immediately. These initiatives would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18 is the principal basis of the legislation I introduced in the last three Congresses as well as this one.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators Cohen, Kassebaum, BOND, and MCCAIN, and included pieces of my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a starting point for debate. As I noted earlier, I was precluded by Majority Leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of the Environment Act (S. 171) in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy legislation, including insurance market reforms, an extension of the tax deductibility of health insurance for the self employed, and tax deductibility of long term care insurance.

I continued these efforts in the 105th Congress, with the introduction of Health Care Assurance Act of 1997 (S. 24), which included market reforms similar to my previous proposals with the addition of a new Title I, an innovative program to provide vouchers to States to cover children who lack health insurance coverage. I also introduced Title I of this legislation as a stand-alone bill, the Healthy Children's Pilot Program of 1997 (S. 435) on March 13, 1997. This proposal targeted the approximately 4.2 million children of the working poor who lacked health insurance at that time. These are children whose parents earn too much to be eligible for Medicaid, but do not earn enough to afford private health care coverage for their families. This legislation would have established a $10 billion/5 year discretionary pilot program to cover these uninsured children by providing grants to States. Modeled after Pennsylvania's extraordinarily successful Caring and BlueCHIP programs, this legislation was the first Republican-sponsored child health insurance bill during the 105th Congress.

I was encouraged that the Balanced Budget Act of 1997, signed into law on August 5, 1997, included a combination of the best provisions from many of the child health insurance proposals throughout this Congress. The new legislation allocated $24 billion over five years to establish State Child Health Insurance Programs, funded in part by a slight increase in the cigarette tax.

On the first day of the 106th Congress, I again introduced the Health Care Assurance Act of 1999, also designated S. 24. This bill contained similar insurance market reforms, as well as new provisions to augment the new State Child Health Insurance Program, to assist individuals with disabilities in maintaining quality health care coverage, and to establish a National Fund for Health Research to supplement the funding of the National Institutes of Health. All these new initiatives, as well as the market reforms that I supported previously, work toward the goals of covering more individuals and stemming the tide of rising health costs.

My commitment to the issue of health care reform across all populations has been consistently evident during my tenure in the Senate, as I have taken to this floor and offered health care reform bills and amendments on countless occasions. I will continue to stress the importance of the Federal government's investment in and attention to the system's future.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Seven and one half years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation using a remarkable device called the

''Gamma Knife.'' I entered the hospital on the morning of October 11, 1996, and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent innovation, coming into widespread use only in the past decade.

In July 1998, I was pleased to return to the Senate after a relatively brief period of convalescence following heart bypass surgery. This experience again led me to marvel at our health care system and made me more determined than ever to support Federal funding for biomedical research and to support legislation which will incrementally make health care available to all Americans.

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. As I have previously discussed, my concern about health care began many years ago and has been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I now have the honor to chair.

My own experience as a patient has given me deeper insights into the American health care system beyond my perspective from the U.S. Senate. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; (4) our system has the resources to treat the 43.9 million Americans currently uninsured, but we must find the way to pay for it; and (5) all Americans deserve the access to health care from which I and others with coverage have benefitted.

I have long been convinced that our Federal budget of $1.8 trillion could provide sufficient funding for America's needs if we establish our real priorities. Over the past eight years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal government. The message we heard loudest was that Americans do not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed at a slower pace and to target what is not working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I had been willing to cooperate with the Clinton Administration in solving the health care problems facing our country. However, I found many important areas where I differed with President Clinton's approach to solutions and I did so because I believed that the proposals would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system as a whole. Most importantly, as the President proposed in 1993, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant, Sharon Helfant, to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy; I still receive requests for the chart nearly eight years later. Groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

With the history of the health care reform debate in mind and building on my previous efforts, I am again introducing an incremental bill which would provide quality health care without adversely affecting the many positive aspects of our health care system. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this trial and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 194.7 million Americans justifiably rely.

The legislation I am introducing today has three objectives: (1) to provide affordable health insurance for those now not covered; (2) to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals, families, and children.

This bill includes provisions to expand the Medicaid program to cover higher income individuals than currently allowed, to encourage the formation of small group insurance purchasing arrangements, to expand access to health insurance for children, to improve health benefits for individuals with disabilities, to strengthen preventive health benefits under the Medicare program, to increase access to prenatal care and outreach for the prevention of low birth weight babies, to strengthen patients' rights regarding medical care at the end of life, to expand access to primary and preventive health services, to reform the COBRA law, to enhance our investment in outcomes research, to reduce the incidence of medical errors, and to establish a national fund for health research as a supplement to the National Institutes of Health budget.

Taken together, I believe the reforms proposed in the Health Care Assurance Act of 2001 will both improve the quality of health care delivery and will help ease the escalating costs of health care in this country.

This new initiative, which was not contained in my previous version of this legislation, would guarantee coverage for individuals earning up to 133 percent of the Federal poverty level ($11,105 for a single/$22,676 for a family of four) and would give states the option to cover individuals earning up to 200 percent of poverty ($16,700 for a single/$34,100 for a family of four). This population is generally deemed undesirable by private insurers, and since these low-income individuals are ineligible for Medicaid, they currently remain uninsured.

The provisions in this title advance the recent joint proposal by the Health Insurance Association of America and Families USA, two groups which have traditionally been on opposing ends of health policy debates. Recognizing the rising number of Americans who lack health insurance, these groups took the unprecedented step in crafting a set of basic policy goals on which Congress may build consensus and get something done for the uninsured. Currently, Medicaid only guarantees coverage for pregnant women and infants who earn up to 133 percent of the poverty level. Beyond that population, the Federal mandate varies across age, income, and disability status; for instance, there are different federal mandates for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal contributions for coverage of people ages 16–18 or for adults with children. I recognize that states may certainly choose to establish programs to cover these and other categories of low-income people, but usually will not do so without Federal help.

Title II of the bill builds on the State Child Health Insurance Program (SCHIP), the program established in the Balanced Budget Act of 1997, which allocated $24 billion over five years to increase health insurance coverage for children. The SCHIP program gives

States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. This title would increase the income eligibility to families with incomes at or below 235 percent of the Federal poverty level ($40,067 annually for a family of four). The Health Care Financing Administration reported that nearly two million children were enrolled in the SCHIP program during fiscal year 1999. The Administration's goal is to enroll five million more children in the program by the end of fiscal year 2002. This provision would allow eligibility for approximately another 850,000 uninsured children.

Title III assists another of our Nation's most vulnerable populations by improving the delivery of care for individuals with long-term disabilities. This title would allow for Medicaid reimbursement for community-based attendant care services, as an alternative to institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 6.64 million individuals receive care for disabilities under the Medicaid program.

This title builds on S. 1935, legislation I introduced during the 106th Congress with Senator TOM HARKIN of Iowa. Such a change in Medicaid law is desperately needed given the Supreme Court's recent ruling in *Olmstead* v. *L.C.*, 119 S. Ct. 2176 (1999): the Americans with Disabilities Act (ADA) requires States, in some circumstances, to provide community-based treatment to persons with mental disabilities rather than placement in institutions. This decision and several lower court decisions have pointed to the need for a structured Medicaid attendant-care services benefit in order to meet obligations under the ADA.

I am pleased to report that my fiscal year 2001 Labor, HHS, and Education Appropriations bill provided $50 million for ''Real Choice, Systems Change'' grants for states to fund initiatives for systems improvements and to provide long term services and supports, including community-based attendant care. In addition, $20 million was provided to continue demonstration projects on Medicaid coverage of community-based attendant care services. Title III of this bill expands and authorizes the programs we have been funding as demonstration projects in order to establish a permanent infrastructure for the new benefit.

The next title contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meet a standard minimum benefits package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

Specifically, Title IV extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA '85) to allow employees who leave their job, either through a lay-off or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options, particularly when compared to what they would be able to buy in the individual insurance market.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductibles of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103rd Congress by Senator Phil GRAMM and will provide an extra cushion of coverage options for people in transition. According to Senator GRAMM, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

This title also includes a provision which would extend to 36 months the time period for COBRA coverage for a child who is no longer a dependent under a parent's health insurance policy. Uninsured workers tend to be concentrated among those under age 35, although the average age of uninsured workers is increasing. EBRI statistics indicate that 24 percent of young adults between the ages of 18 and 24 were without coverage in 1998. This provision would allow those who are no longer dependents on their parents' plan to have a more secure safety net.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits.

My bill would also create health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today's market, such individuals often face a market where coverage options are not affordable. Purchasing groups will allow small businesses and individuals to buy coverage by pooling together to form purchasing groups, and choose from insurance plans that provide comprehensive benefits, with guaranteed enrollment, renewability, and equal pricing through community rating, adjusted by age and family size.

Title IV of my bill also includes an important provision to give the self employed 100 percent deductibility of their health insurance premiums. The Kassebaum-KENNEDY bill extended the deductibility of health insurance for the self employed to 80 percent by 2006. The Balanced Budget Act of 1997 and the Omnibus Appropriations Act for fiscal year 1999 both contained new phase-in scales for health insurance deductibility for the self-employed. Currently, self-employed persons may deduct 60 percent of their health insurance costs through 2002, to be fully deductible in 2003. My bill would speed up the phase-in: health insurance costs would be 70 percent deductible in 2001 and fully deductible in 2002, thereby giving the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.

The provisions contained in this portion of my bill are vital, as EBRI statistics tell us that 60 percent of all uninsured workers in 1998 were either self-employed or were working in small private-sector firms. The disparity is further demonstrated by the fact that 31 percent of workers in private-sector firms with fewer than 25 employees were uninsured, compared with only 13 percent of workers in private-sector firms with 1000 or more employees.

It is anticipated that the increased costs to employers electing to cover their employees as provided under Title IV in my bill would be offset by the administrative savings generated by development of the small employer purchasing groups. Such savings have been estimated at levels as high as $9 billion annually. In addition, by addressing some of the areas within the health care system that have exacerbated costs, significant savings can be achieved and then redirected toward direct health care services.

Although our existing health care system suffers from serious structural problems, common sense steps can be taken to head off the remaining problems before they reach crisis proportions. Title V of my bill includes initiatives which will enhance primary and preventive care services aimed at preventing disease.

Each year about 7.6 percent of babies born in the United States are born with a low birth weight, multiplying their risk of death and disability. Most of the deaths which do occur are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, and the rate decreased by 28 percent between 1988 and 1998, too many babies continue to be born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality put it this way: ''More babies are being born at risk and all we are doing is saving them with expensive technology.''

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw one pound babies in 1984 when I was astounded to learn that Pittsburgh, Pennsylvania, had the highest infant mortality rate of African-American babies of any city in the

United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one pound baby, about as big as my hand. However, I am pleased to report that as a result of successful prevention initiatives like the federal Healthy Start program, Pittsburgh's infant mortality has decreased 20 percent.

The Department of Health and Human Services has estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births. We know that in most instances, prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. The short and long-term costs of saving and caring for infants of low birth weight is staggering. In the most recent available study on the costs of low birth weight babies, the Office of Technology Assessment in 1988 concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal birth weight, averted by earlier or more frequent prenatal care.

To improve pregnancy outcomes for women at risk of delivering babies of low birth weight, my legislation would strengthen the Healthy Start program to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. Funds are awarded under this program with the goal of developing and coordinating effective health care and social support services for women and their babies.

I initiated action that led to the creation of the Healthy Start program in 1991, working with the Bush Administration and Senator HARKIN. As Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of 15 demonstration projects. This number grew to 22 in 1994, to 75 projects in 1998, and the Health Resources and Services Administration expects this number to continue to increase. For both fiscal years 2000 and 2001, we secured $90 million for this vital program.

Title V also provides increased support to local educational agencies to develop and strengthen comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers. Many studies indicate that poor health and social habits are carried into adulthood and often passed on to the next generation. To interrupt this tragic cycle, our nation must invest in proven preventive health education programs.

Title V also expands the authorization of a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As Chairman of the Labor, HHS and Education Appropriations Subcommittee, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention (CDC) increased $2.92 billion or 290 percent since 1989, for a fiscal year 2001 total of $3.92 billion. We have also worked to increase funding for CDC's breast and cervical cancer early detection program to $176 million in fiscal year 2001, almost one and a half times its 1993 total.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2 year olds are vaccinated. The CDC also continues to educate parents and caregivers on the importance of immunization for children under two years. Along with my colleagues on the Appropriations Committee, I have helped ensure that funding for this important program totaled $532.5 million for fiscal year 2001. The CDC's lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents the amount of lead in children's blood from reaching dangerous levels and is currently funded at $36 million.

In recent years, we have also strengthened funding for Community Health Centers, which provide immunizations, health advice, and health professions training. These Centers, administered by the Health Resources and Services Administration, provide a critical primary care safety net to rural and medically underserved communities, as well as uninsured individuals, migrant workers, the homeless, residents of public housing, and Medicaid recipients. For fiscal year 2001, these Centers received over $1.2 billion.

As former Chairman of the Select Committee on Intelligence and current Chairman of the Appropriations Subcommittee with jurisdiction over non-defense biomedical research, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for a research consortium led by the University of Pennsylvania to perform the first clinical trials testing the use of intelligence technology for breast cancer detection. My Appropriations Subcommittee has continued to provide funds to continue these clinical trials.

I have also been a strong supporter of funding for AIDS research, education, and prevention programs. Funding for Ryan White AIDS programs has increased from $757.4 million in 1996 to $1.6 billion for fiscal year 2001. Within the fiscal year 2001 funding, $65 million was included for pediatric AIDS programs and $589 million for the AIDS Drug Assistance Program (ADAP). AIDS research at the NIH totaled $742.4 million in 1989, and has increased to an estimated $2.1 billion in fiscal year 2001.

The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. The Balanced Budget Act of 1997 and the Consolidated Omnibus Appropriations Act of fiscal year 2001 established new and enhanced preventive benefits within the Medicare program, such as flu shots, bone mass measurements, yearly mammograms, biennial pap smears and pelvic exams, and coverage of colonoscopy for high risk patients. However, some of these ''wellness'' benefits have cost obligations, such as copayments or deductibles. In this bill, I have also included provisions which refine and strengthen preventive benefits within the Medicare program, including coverage of yearly pap smears, pelvic exams, and screening and diagnostic mammography with no copayment or Part B deductible; and coverage of insulin pumps for certain Type I Diabetics.

The proposed expansions in preventive health services included in Title V of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over five years. It is clearly difficult to quantify today the savings that will surely be achieved when future generations of children are truly educated in a range of health-related subjects.

Title VI of my bill would establish a federal standard and create uniform national forms concerning a patient's right to decline medical treatment. Nothing in my bill mandates the use of uniform forms. Rather, the purpose of this provision is to make it easier for individuals to make their own choices and determination regarding their treatment during this vulnerable and highly personal time. Studies have also indicated that advance directives do

not increase health care costs. Data indicate that end-of-life costs account for 10 percent of total health expenditures and 28 percent of total Medicare expenditures. Loose projections indicate that a 10 percent savings made in the final days of life would result in approximately $10 billion of savings in medical costs per year, and about $4.7 billion in savings for Medicare alone.

However, economic considerations are not and should not be the primary reasons for using advance directives. They provide a means for patients to exercise their autonomy over end-of-life decisions. A study done at the Thomas Jefferson University Medical College in Philadelphia cited research which found that about 90 percent of the American population has expressed interest in discussing advance directives. However, even more recent studies indicate that living wills would be used by many more Americans if they were better understood. My bill would provide information on an individual's rights regarding living wills and advanced directives, and would make it easier for people to have their wishes known and honored. In my view, no one has the right to decide for anyone else what constitutes appropriate medical treatment to prolong a person's life. Encouraging the use of advance directives will ensure that patients are not needlessly and unlawfully treated against their will. No health care provider would be permitted to treat an adult contrary to the adult's wishes as outlined in an advance directive. However, in no way would the use of advance directives condone assisted suicide or any affirmative act to end human life.

The next title addresses the unique barriers to coverage which exist in both rural and urban medically underserved areas. Within Pennsylvania, such barriers result from a lack of health care providers in rural areas, and other problems associated with the lack of coverage for indigent populations living in inner cities. Title VII of my bill improves access to health care services for these populations by: (1) expanding Public Health Service programs and training more primary care providers to serve in such areas; (2) increasing the utilization of non-physician providers, including nurse practitioners, clinical nurse specialists and physician assistants, through increased reimbursements under the Medicare and Medicaid programs; and (3) increasing support for education and outreach.

I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of Canada, it may not be unreasonable to project annual savings of five percent, or $57.5 billion, from an increased number of primary care providers in our system. Again, experience will raise or lower this projection.

Outcomes research is another area where we can achieve considerable long term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary.

I joined my colleagues in recognizing this important area of research by supporting passage of legislation reauthorizing the Agency for Healthcare Research and Quality (formerly the Agency for Health Care Policy and Research. The renamed agency, dubbed ''AHRQ,'' is authorized to expand outcomes research necessary for the development of medical practice guidelines and for increased access to consumer information. In order to boost funding for this vital area of research, title VIII of my bill would establish a trust fund for medical treatment outcomes research, capitalized by a .001 cent tax on total U.S. health insurance premiums collected. This trust fund would be specifically authorized for use by AHRQ to supplement its outcomes research mission. Based on the Health Care Financing Administration's 1998 health spending review, private health insurance premiums totaled $375 billion. As provided in my bill, a surcharge would generate $375 million for an outcomes research fund.

Also included in this title is my ''Medical Errors Reduction Act,'' which I introduced in the 106th Congress with Senators HARKIN and INOUYE, in response to the November 29, 1999, Institute of Medicine (IOM) report, ''To Err Is Human: Building a Safer Health System.'' The report concluded that medical mistakes have led to numerous injuries and deaths, affecting an estimated three to four percent of all hospital patients. The IOM report also concluded that health care is a decade or more behind other high-risk industries in its attention to ensuring basic safety.

According to the IOM, at least 44,000 Americans die each year as a result of medical errors, and the number may be as high as 98,000—which catapults medical errors to the fifth leading cause of death nationwide. This total outnumbers deaths from motor vehicle accidents, breast cancer, and AIDS. Further, medical errors resulting in injury are estimated to cost the nation between $17 billion and $29 billion, including additional health care costs, lost income, lost household production, and disability costs.

The IOM findings are startling and beg for national attention to determine ways to reduce the number of medical errors. On December 13, 1999, I chaired a hearing of the Labor, HHS, Education Appropriations Subcommittee to hear details of IOM's report findings. On January 25, 2000, I chaired a joint Labor, HHS, and Education Appropriations Subcommittee/Veterans' Affairs Committee hearing to consider mandatory and voluntary reporting requirements and to begin to determine ways to reduce medical errors.

Specifically, my proposal would make grants available to states so they can establish their own error reporting systems and would establish 15 competitively-awarded research demonstration projects in rural and urban areas throughout the country. These projects would employ new and proven technologies and enhance staff training to determine ways to reduce errors. The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by Federal health plans.

I am pleased to report that my Appropriations Subcommittee has already taken some critical first steps to reduce the incidence of deaths and injuries related to medical errors. In fiscal year 2001, $50 million has been provided to explore opportunities for a better understanding of the systemic problems in health care, in the hope that we can dramatically reduce the incidence of medical errors. The research initiatives include a focus on developing guidance to assist in States' development of data collection systems so that national trends can be determined and analyzed. In addition, the Committee has encouraged health care providers to explore the use of technologies and other methods in reducing medical errors.

Nursing home care is another significant issue which must be addressed. Spending on long term care totaled $115 billion in 1997, and over 40 percent of that cost was borne by the Medicaid program. Despite these large public expenditures, the elderly face significant uncovered liability for long term care. Title IX of my bill would provide a tax credit for premiums paid to purchase private long-term care insurance. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding from income tax the life insurance savings used to pay for long term care; and (3) setting standards for long term care insurance that reduce the bias that currently favors institutional care over community and home-based alternatives.

The final title of my bill would create a national fund for health research within the Department of the Treasury, to supplement the monies appropriated for the National Institutes of Health. To capitalize this fund, health insurance companies would be required to contribute 1 percent of all health insurance premiums received. This creative proposal was first developed by my distinguished colleagues, Senators Mark Hatfield and TOM HARKIN. Their idea is a sound one and ought to be

adopted. To this end, Senator HARKIN and I introduced the National Fund for Health Research Act on March 13, 1997 (S. 441) and August 5, 1999 (S. 1504). I look forward to continuing to work with Senator HARKIN to enact a biomedical research fund this Congress.

While precision is again impossible, my proposal could conceivably achieve a net annual savings of between $74 billion to $86 billion. The savings are totaled as follows: $9 billion in small employer market reforms coupled with employer purchasing groups; $2.5 billion for preventive health services; $17 to $29 billion for reducing costs associated with reducing medical errors; $10 billion from advanced directives; $57.5 billion from increasing primary care providers; and $2.9 billion by reducing administrative costs. The costs would be conservatively estimated to be $2.8 billion for long term care tax credits, approximately $15 billion for community-based attendant care services under Medicaid, and $7 billion for general Medicaid expansion. Experience and more detailed analysis of the affected populations will require modification of these projections, and I am prepared to work with my colleagues to develop implementing legislation and to press for further action in the important area of health care reform.

The provisions which I have outlined today contain my ideas for a framework to provide affordable, high quality health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. In my judgment, we should not scrap, but rather we should build upon our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed in 1993 to accomplish this. I believe we can provide care for the 43.9 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $1.15 trillion in health care spending. Mr. President, the time has come for concerted action in this arena.

I urge the Congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly. I ask unanimous consent that the full text of the bill, a summary, and a list of my health reform bills be printed in the RECORD.

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

S. 24

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 ''Health Care Assurance Act of 2001''.

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

TITLE I—EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS

SEC. 101. EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS.

(a) REQUIRED COVERAGE OF INDIVIDUALS UP TO 133 PERCENT OF POVERTY.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(1) by striking ''or'' at the end of subclause (VI);

(2) by inserting ''or'' after the semicolon at the end of subclause (VII); and

(3) by adding at the end the following:

''(VIII) whose family income does not exceed 133 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;''.

(b) OPTIONAL COVERAGE OF INDIVIDUALS UP TO 200 PERCENT OF POVERTY.—Section 1902(a)(10)(A)(i)(VIII) of the Social Security Act, as added by subsection (a)(3), is amended by inserting ''(200 percent, at State option)'' after ''133 percent''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section take effect on October 1, 2001.

(2) EXTENSION IF STATE LAW AMENDMENT REQUIRED.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE II—EXPANSION OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SEC. 201. INCREASE IN INCOME ELIGIBILITY.

(a) DEFINITION OF LOW-INCOME CHILD.—Section 2110(c)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1397jj(c)(4)) is amended by striking ''200'' and inserting ''235''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2001.

TITLE III—EXPANDED HEALTH SERVICES FOR DISABLED INDIVIDUALS

SEC. 301. COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) REQUIRED COVERAGE FOR INDIVIDUALS ENTITLED TO NURSING FACILITY SERVICES OR ELIGIBLE FOR INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''(ii) subject to section 1935, for the inclusion of community attendant services and supports for any individual who is eligible for medical assistance under the State plan and with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan) and who requires such community attendant services and supports based on functional need and without regard to age or disability;''.

(b) MEDICAID COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following:

''community attendant services and supports

''SEC. 1935. (a) DEFINITIONS.—In this title:

''(1) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

''(A) IN GENERAL.—The term 'community attendant services and supports' means attendant services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

''(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

''(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility, an intermediate care facility for the mentally retarded, or other congregate facility;

''(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

''(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative.

''(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

''(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

''(ii) acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

''(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

''(iv) voluntary training on how to select, manage, and dismiss attendants.

''(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

''(i) provision of room and board for the individual;

''(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

''(iii) assistive technology devices and assistive technology services;

''(iv) durable medical equipment; or

''(v) home modifications.

''(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first months's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

''(2) ADDITIONAL DEFINITIONS.—

''(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

''(B) CONSUMER DIRECTED.—The term 'consumer directed' means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community attendant services and supports, regardless of who acts as the employer of record.

''(C) DELIVERY MODELS.—

''(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community attendant services and supports for an individual, a method of providing consumer-directed services and supports under which entities contract for the provision of such services and supports.

''(ii) OTHER MODELS.—The term 'other models' means methods, other than an agency-provider model, for the provision of consumer-directed services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

''(D) HEALTH-RELATED FUNCTIONS.—The term 'health-related functions' means functions that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

''(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes meal planning and preparation, managing finances, shopping for food, clothing and other essential items, performing essential household chores, communicating by phone and other media, and getting around and participating in the community.

''(F) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.

''(b) LIMITATION ON AMOUNTS OF EXPENDITURES UNDER THIS TITLE.—In carrying out section 1902(a)(10)(D)(ii), a State shall permit an individual who has a level of severity of physical or mental impairment that entitles such individual to medical assistance with respect to nursing facility services or qualifies the individual for intermediate care facility services for the mentally retarded to choose to receive medical assistance for community attendant services and supports (rather than medical assistance for such institutional services and supports), in the most integrated setting appropriate to the needs of the individual, so long as the aggregate amount of the Federal expenditures for community attendant services and supports for all such individuals in a fiscal year does not exceed the total that would have been expended for such individuals to receive such institutional services and supports in the year.

''(c) MAINTENANCE OF EFFORT.—With respect to a fiscal year quarter, no Federal funds may be paid to a State for medical assistance provided to individuals described in section 1902(a)(10)(D)(ii) for such fiscal year quarter if the Secretary determines that the total of the State expenditures for programs to enable such individuals with disabilities to receive community attendant services and supports (or services and supports that are similar to such services and supports) under other provisions of this title for the preceding fiscal year quarter is less than the total of such expenditures for the same fiscal year quarter for the preceding fiscal year.

''(d) STATE QUALITY ASSURANCE PROGRAM.—In order to continue to receive Federal financial participation for providing community attendant services and supports under this section, a State shall, at a minimum, establish and maintain a quality assurance program that provides for the following:

''(1) The State shall establish requirements, as appropriate, for agency-based and other models that include—

''(A) minimum qualifications and training requirements, as appropriate for agency-based and other models;

''(B) financial operating standards; and

''(C) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

''(2) The State shall modify the quality assurance program, where appropriate, to maximize consumer independence and consumer direction in both agency-provided and other models.

''(3) The State shall provide a system that allows for the external monitoring of the quality of services by entities consisting of consumers and their representatives, disability organizations, providers, family, members of the community, and others.

''(4) The State provides ongoing monitoring of the health and well-being of each recipient.

''(5) The State shall require that quality assurance mechanisms appropriate for the individual should be included in the individual's written plan.

''(6) The State shall establish a process for mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation.

''(7) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which a participant receives the services and supports described in the individual's plan and the participant's satisfaction with such services and supports.

''(8) The State shall make available to the public the findings of the quality assurance program.

''(9) The State shall establish an on-going public process for the development, implementation, and review of the State's quality assurance program.

''(10) The State shall develop and implement a program of sanctions.

''(e) FEDERAL ROLE IN QUALITY ASSURANCE.—The Secretary shall conduct a periodic sample review of outcomes for individuals based upon the individual's plan of support and based upon the quality assurance program of the State. The Secretary may conduct targeted reviews upon receipt of allegations of neglect, abuse, or exploitation. The Secretary shall develop guidelines for States to use in developing sanctions.

''(f) REQUIREMENT TO EXPAND ELIGIBILITY.—Effective October 1, 2002, a State may not exercise the option of coverage of individuals under section 1902(a)(10)(A)(ii)(V) without providing coverage under section 1902(a)(10)(A)(ii)(VI).

''(g) REPORT ON IMPACT OF SECTION.—The Secretary shall submit to Congress periodic reports on the impact of this section on beneficiaries, States, and the Federal Government.''.

(c) INCLUSION IN OPTIONAL ELIGIBILITY CLASSIFICATION.—Section 1902(a)(10)(A)(ii)(VI) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by inserting ''or community attendant services and supports described in

section 1935'' after ''section 1915'' each place such term appears.

(d) COVERAGE AS MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

''(27) community attendant services and supports (to the extent allowed and as defined in section 1935); and''.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2001, and apply to medical assistance provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

SEC. 302. GRANTS TO DEVELOP AND ESTABLISH REAL CHOICE SYSTEMS CHANGE INITIATIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall award grants described in subsection (b) to States for a fiscal year to support real choice systems change initiatives that establish specific action steps and specific timetables to provide consumer-responsive long term services and supports to eligible individuals in the most integrated setting appropriate based on the unique strengths and needs of the individual and the priorities and concerns of the individual (or, as appropriate, the individual's representative).

(2) ELIGIBILITY.—To be eligible for a grant under this section, a State shall—

(A) establish the Consumer Task Force in accordance with subsection (d); and

(B) submit an application at such time, in such manner, and containing such information as the Secretary may determine. The application shall be jointly developed and signed by the designated State official and the chairperson of such Task Force, acting on behalf of and at the direction of the Task Force.

(3) DEFINITION OF STATE.—In this section, the term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) GRANTS FOR REAL CHOICE SYSTEMS CHANGE INITIATIVES.—

(1) IN GENERAL.—From funds appropriated under subsection (g), the Secretary shall award grants to States for a fiscal year to—

(A) support the establishment, implementation, and operation of the State real choice systems change initiatives described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such initiatives.

(2) DETERMINATION OF AWARDS; STATE ALLOTMENTS.—The Secretary shall develop a formula for the distribution of funds to States for each fiscal year under subsection (a). Such formula shall give preference to States that have a relatively higher proportion of long-term services and supports furnished to individuals in an institutional setting but who have a plan described in an application submitted under subsection (a)(2).

(c) AUTHORIZED ACTIVITIES.—A State that receives a grant under this section shall use the funds made available through the grant to accomplish the purposes described in subsection (a) and, in accomplishing such purposes, may carry out any of the following systems change activities:

(1) NEEDS ASSESSMENT AND DATA GATHERING.—The State may use funds to conduct a statewide needs assessment that may be based on data in existence on the date on which the assessment is initiated and may include information about the number of individuals within the State who are receiving long-term services and supports in unnecessarily segregated settings, the nature and extent to which current programs respond to the preferences of individuals with disabilities to receive services in home and community-based settings as well as in institutional settings, and the expected change in demand for services provided in home and community settings as well as institutional settings.

(2) INSTITUTIONAL BIAS.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings, including policies, practices, and procedures governing statewideness, comparability in amount, duration, and scope of services, financial eligibility, individualized functional assessments and screenings (including individual and family involvement), and knowledge about service options.

(3) OVER MEDICALIZATION OF SERVICES.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports by health care professionals to the extent that quality services and supports can be provided by other qualified individuals, including policies, practices, and procedures governing service authorization, case management, and service coordination, service delivery options, quality controls, and supervision and training.

(4) INTERAGENCY COORDINATION; SINGLE POINT OF ENTRY.—The State may support activities to identify and coordinate Federal and State policies, resources, and services, relating to the provision of long-term services and supports, including the convening of interagency work groups and the entering into of interagency agreements that provide for a single point of entry and the design and implementation of a coordinated screening and assessment system for all persons eligible for long-term services and supports.

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may carry out directly, or may provide support to a public or private entity to carry out training and technical assistance activities that are provided for individuals with disabilities, and, as appropriate, their representatives, attendants, and other personnel (including professionals, paraprofessionals, volunteers, and other members of the community).

(6) PUBLIC AWARENESS.—The State may support a public awareness program that is designed to provide information relating to the availability of choices available to individuals with disabilities for receiving long-term services and support in the most integrated setting appropriate.

(7) DOWNSIZING OF LARGE INSTITUTIONS.—The State may use funds to support the per capita increased fixed costs in institutional settings directly related to the movement of individuals with disabilities out of specific facilities and into community-based settings.

(8) TRANSITIONAL COSTS.—The State may use funds to provide transitional costs described in section 1935(a)(1)(D) of the Social Security Act, as added by section 301(b) of this Act.

(9) TASK FORCE.—The State may use funds to support the operation of the Consumer Task Force established under subsection (d).

(10) DEMONSTRATIONS OF NEW APPROACHES.—The State may use funds to conduct, on a time-limited basis, the demonstration of new approaches to accomplishing the purposes described in subsection (a).

(11) OTHER ACTIVITIES.—The State may use funds for any systems change activities that are not described in any of the preceding paragraphs of this subsection and that are necessary for developing, implementing, or evaluating the comprehensive statewide system of long term services and supports.

(d) CONSUMER TASK FORCE.—

(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this section as the ''Task Force'') to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(3) COMPOSITION.—

(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, State Independent Living Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or the representatives of such individuals.

(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of agencies described in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

(e) AVAILABILITY OF FUNDS.—

(1) FUNDS ALLOTTED TO STATES.—Funds allotted to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT ALLOTTED TO STATES.—Funds not allotted to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allotment by the Secretary using the allotment formula established by the Secretary under subsection (b)(2).

(f) ANNUAL REPORT.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of eligible individuals in the State who receive long-term services and supports in the most integrated setting appropriate, including through community attendant services and supports and other community-based settings.

(g) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is authorized to be appropriated and there is appropriated to make grants under this section for—

(1) fiscal year 2002, $25,000,000; and

(2) for fiscal year 2003 and each fiscal year thereafter, such sums as may be necessary to carry out this section.

SEC. 303. STATE OPTION FOR ELIGIBILITY FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)) is amended—

(1) in paragraph (4)(C), by inserting ''subject to paragraph (5),'' after ''does not exceed'', and

(2) by adding at the end the following:

''(5)(A) A State may waive the income, resources, and deeming limitations described in paragraph (4)(C) in such cases as the State finds the potential for employment opportunities would be enhanced through the provision of medical assistance for community attendant services and supports in accordance with section 1935.

''(B) In the case of an individual who is eligible for medical assistance described in subparagraph (A) only as a result of the application of such subparagraph, the State may, notwithstanding section 1916(b), impose a premium based on a sliding scale related to income.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance provided for community attendant services and supports described in section 1935 of the Social Security Act, as added by section 301(b) of this Act, furnished on or after October 1, 2001.

SEC. 304. STUDIES AND REPORTS.

(a) REVIEW OF, AND REPORT ON, REGULATIONS.—The National Council on Disability established under title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) shall review regulations in existence under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on the date of enactment of this Act insofar as such regulations regulate the provision of home health services, personal care services, and other services in home and community-based settings and, not later than 1 year after such date, submit a report to Congress on the results of such study, together with any recommendations for legislation that the Council determines to be appropriate as a result of the study.

(b) REPORT ON REDUCED TITLE XIX EXPENDITURES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on how expenditures under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) can be reduced by the furnishing of community attendant services and supports in accordance with section 1935 of the Social Security Act (as added by section 301(b) of this Act).

SEC. 305. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

The Secretary of Health and Human Services shall establish a task force to examine appropriate methods for financing long-term services and supports. The task force shall include significant representation of individuals (and representatives of individuals) who receive such services and supports.

TITLE IV—HEALTH CARE INSURANCE COVERAGE

Subtitle A—General Provisions

SEC. 401. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B, the following:

''SUBPART C—GENERAL INSURANCE COVERAGE REFORMS

''CHAPTER 1—INCREASED AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE

''SEC. 721. DEFINITION.

''As used in this subpart, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 721A(b)).

''SEC. 721A. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

''(a) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

''(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this subpart, a set of rules which the NAIC determines is sufficient for determining, in the case of any group health plan, or a health insurance issuer offering group health insurance coverage, and for purposes of this section, the actuarial value of the coverage offered by the plan or coverage.

''(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this subpart. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

''(b) STANDARD COVERAGE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall be considered to provide standard coverage consistent with this subsection if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

''(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

''(A) INITIAL DETERMINATION.—

''(i) IN GENERAL.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this subpart, a target actuarial value for standard coverage equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be considered in such determination by this subpart or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors.

''(ii) COVERAGE DESCRIBED.—The coverage described in this clause is coverage for medically necessary and appropriate services consisting of medical and surgical services, medical equipment, preventive services, and emergency transportation in frontier areas. No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this subpart or through regulations.

''(B) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such value for use under this chapter. If the Secretary determines that a target actuarial value has not been submitted or does not comply with the requirements of subparagraph (A), the Secretary shall promptly determine a target actuarial value that meets such requirements.

''(c) SUBSEQUENT REVISIONS.—

''(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The provisions of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

''(2) SECRETARY.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

''SEC. 721B. ESTABLISHMENT OF PLAN STANDARDS.

''(a) ESTABLISHMENT OF GENERAL STANDARDS.—

''(1) ROLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this subpart, model regulations that specify standards for making qualified group health plans available to small employers. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary. Such standards shall be nonbinding (except as provided in chapter 4).

''(2) CONTINGENCY.—If the NAIC does not develop such model regulations within the period described in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this subpart, model regulations that specify standards for insurers with regard to making qualified group health plans available to small employers. Such standards shall be nonbinding (except as provided in chapter 4).

''(3) EFFECTIVE DATE.—The standards specified in the model regulations shall apply to group health plans and health insurance issuers offering group health insurance coverage in a State on or after the respective date the standards are implemented in the State.

''(b) NO PREEMPTION OF STATE LAW.—A State may implement standards for group health plans available, and health insurance issuers offering group health insurance coverage offered, to small employers that are more stringent than the standards under this section, except that a State may not implement standards that prevent the offering of at least one group health plan that provides standard coverage (as described in section 721A(b)).

''SEC. 721C. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

''(a) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED ELIGIBLE EMPLOYEES AND ELIGIBLE INDIVIDUALS.—

''(1) IN GENERAL.—Each group health plan offered, and each health insurance issuer offering group health insurance coverage, to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 721A(b)).

''(2) ESTABLISHMENT OF COMMUNITY RATING AREA.—

''(A) IN GENERAL.—Not later than January 1, 2002, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

''(B) GEOGRAPHIC AREA VARIATIONS.—For purposes of subparagraph (A), a State—

''(i) may not identify an area that divides a 3-digit zip code, a county, or all portions of a metropolitan statistical area;

''(ii) shall not permit premium rates for coverage offered in a portion of an interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

''(iii) may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

''(3) ELIGIBLE INDIVIDUALS.—For purposes of this section, the term 'eligible individuals' includes certain uninsured individuals (as described in section 721G).

''(b) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

''(2) APPLICATION TO ENROLLEES.—

''(A) IN GENERAL.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

''(i) the standard premium (established under paragraph (1));

''(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

''(iii) the age adjustment factor (specified under subparagraph (C)).

''(B) FAMILY ADJUSTMENT FACTOR.—

''(i) IN GENERAL.—The standards established under section 721B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

''(ii) CLASSES OF ENROLLMENT.—For purposes of this subpart, there are 4 classes of enrollment:

''(I) Coverage only of an individual (referred to in this subpart as the 'individual' enrollment or class of enrollment).

''(II) Coverage of a married couple without children (referred to in this subpart as the 'couple-only' enrollment or class of enrollment).

''(III) Coverage of an individual and one or more children (referred to in this subpart as the 'single parent' enrollment or class of enrollment).

''(IV) Coverage of a married couple and one or more children (referred to in this subpart as the 'dual parent' enrollment or class of enrollment).

''(iii) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this subpart:

''(I) FAMILY.—The terms 'family enrollment' and 'family class of enrollment' refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

''(II) COUPLE.—The term 'couple class of enrollment' refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

''(iv) SPOUSE; MARRIED; COUPLE.—

''(I) IN GENERAL.—In this subpart, the terms 'spouse' and 'married' mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

''(II) COUPLE.—The term 'couple' means an individual and the individual's spouse.

''(C) AGE ADJUSTMENT FACTOR.—The Secretary, in consultation with the NAIC, shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

''(3) ADMINISTRATIVE CHARGES.—

''(A) IN GENERAL.—In accordance with the standards established under section 721B, a group health plan which covers eligible employees and eligible individuals may add a separately-stated administrative charge which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the same method of enrollment. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a group health plan.

''(B) ENROLLMENT THROUGH A QUALIFIED SMALL EMPLOYER PURCHASING GROUP.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge of such plan for enrollment other than through a qualified small employer purchasing group in such area.

''(c) TREATMENT OF NEGOTIATED RATE AS COMMUNITY RATE.—Notwithstanding any other provision of this section, a group health plan and a health insurance issuer offering health insurance coverage that negotiates a premium rate (exclusive of any administrative charge described in subsection (b)(3)) with a qualified small employer purchasing group in a community rating area shall charge the same premium rate to all eligible employees and eligible individuals.

''SEC. 721D. RATING PRACTICES AND PAYMENT OF PREMIUMS.

''(a) FULL DISCLOSURE OF RATING PRACTICES.—

''(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall fully disclose rating practices for the plan to the appropriate certifying authority.

''(2) NOTICE ON EXPIRATION.—A group health plan and a health insurance issuer offering health insurance coverage shall provide for notice of the terms for renewal of a plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

''(3) ACTUARIAL CERTIFICATION.—Each group health plan and health insurance issuer offering health insurance coverage shall file annually with the appropriate certifying authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the group health plan or issuer certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such plan or insurer and methods used by the plan or insurer in establishing premium rates and administrative charges for group health plans—

''(A) such plan or insurer is in compliance with the applicable provisions of this subpart; and

''(B) the rating methods are actuarially sound.

Each plan and insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

''(b) PAYMENT OF PREMIUMS.—

''(1) IN GENERAL.—With respect to a new enrollee in a group health plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

''(2) NOTIFICATION OF FAILURE TO RECEIVE PREMIUM.—If a group health plan or a health insurance issuer offering health insurance coverage fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan involved, the plan or issuer shall provide notice of such failure to the employee or individual within the 20-day period after the date on which such premium payment was due. A plan or issuer may not terminate the enrollment of an eligible employee or eligible individual unless such employee or individual has been notified of any overdue premiums and has been provided a reasonable opportunity to respond to such notice.

''SEC. 721E. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

''(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUPS DESCRIBED.—

''(1) IN GENERAL.—A qualified small employer purchasing group is an entity that—

''(A) is a nonprofit entity certified under State law;

''(B) has a membership consisting solely of small employers;

''(C) is administered solely under the authority and control of its member employers;

''(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as appropriate for such a group;

''(E) offers a program under which qualified group health plans are offered to eligible employees and eligible individuals through its member employers and to certain uninsured individuals in accordance with section 721D; and

''(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

''(i) does not form or underwrite; and

''(ii) does not hold or control any right to vote with respect to.

''(2) STATE CERTIFICATION.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certification and otherwise ensure compliance with the requirements of this subpart.

''(3) SPECIAL RULE.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State as meeting the requirements of paragraph (1) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

''(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

''(c) DOMICILIARY STATE.—For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

''(2) VOTING.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

''(e) DUTIES OF QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Each qualified small employer purchasing group shall—

''(1) enter into agreements with insurers offering qualified group health plans;

''(2) enter into agreements with small employers under section 721F;

''(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 721G;

''(4) provide enrollee information to the State;

''(5) meet the marketing requirements under section 721I; and

''(6) carry out other functions provided for under this subpart.

''(f) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

''(1) perform any activity involving approval or enforcement of payment rates for providers;

''(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified group health plans with the requirements of this subpart;

''(3) assume financial risk in relation to any such health plan; or

''(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this subpart.

''(g) RULES OF CONSTRUCTION.—

''(1) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

''(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

''(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

''(2) SINGLE ORGANIZATION SERVING MULTIPLE AREAS AND STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

''(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified group health plan exclusively through a qualified small employer purchasing group.

''SEC. 721F. AGREEMENTS WITH SMALL EMPLOYERS.

''(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

''(b) PAYROLL DEDUCTION.—

''(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee's wages.

''(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

''SEC. 721G. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED GROUP HEALTH PLANS.

''(a) IN GENERAL.—Each qualified small employer purchasing group shall offer—

''(1) eligible employees,

''(2) eligible individuals, and

''(3) certain uninsured individuals,

the opportunity to enroll in any qualified group health plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

''(b) UNINSURED INDIVIDUALS.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

''SEC. 721H. RECEIPT OF PREMIUMS.

''(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified group health plan shall be equal to the sum of—

''(1) the premium rate offered by such health plan;

''(2) the administrative charge for such health plan; and

''(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

''(b) DISCLOSURE OF PREMIUM RATES AND ADMINISTRATIVE CHARGES.—Each qualified small employer purchasing group shall, prior to the time of enrollment, disclose to enrollees and other interested parties the premium rate for a qualified group health plan, the administrative charge for such plan, and the administrative charge of the group, separately.

''SEC. 721I. MARKETING ACTIVITIES.

''Each qualified small employer purchasing group shall market qualified group health plans to members through the entire community rating area served by the purchasing group.

''SEC. 721J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

''(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

''(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

''(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating a qualified small employer purchasing group. Such costs may include the costs associated with—

''(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

''(2) soliciting bids and negotiating with insurers to make available group health plans;

''(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

''(4) such other activities determined appropriate by the Secretary.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this section such sums as may be necessary.

''SEC. 721K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

''A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

''SEC. 721L. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this subpart.

''(b) EXCEPTION.—The provisions of section 721C(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this subpart.

''CHAPTER 2—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES AND DEPENDENTS OF SMALL EMPLOYERS

''SEC. 722. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

''(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

''(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

''(2) coverage is provided for at least the standard coverage specified in section 721A(b); and

''(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

''(c) SPECIAL RULES.—

''(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

''(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

''(B) such employer has no more than 2 eligible employees; or

''(C) no more than 2 eligible employees are not covered under any group health plan.

''(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

''(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

''(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

''SEC. 722A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

''(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 722(a) shall be deemed to be met with respect to such employee for such plan year if

the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

''(b) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if—

''(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

''(2) coverage is provided for at least the standard coverage specified in section 721A(b);

''(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction; and

''(4) in the case of a plan to which part 1 does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) in the form and manner and at such times as are required under such part 1 with respect to employee welfare benefit plans.

''CHAPTER 3—REQUIRED COVERAGE OPTIONS FOR INDIVIDUALS INSURED THROUGH ASSOCIATION PLANS

''Subchapter A—Qualified Association Plans

''SEC. 723. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

''(a) GENERAL RULE.—For purposes of this chapter, in the case of a qualified association plan—

''(1) except as otherwise provided in this subchapter, the plan shall meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

''(2) if such plan is certified as meeting such requirements and the requirements of this subchapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

''(3) any individual who is a member of the association not enrolling in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

''(b) ELECTION TO BE TREATED AS PURCHASING COOPERATIVE.—Subsection (a) shall not apply to a qualified association plan if—

''(1) the health insurance issuer makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of section 721D; and

''(2) such sponsor meets all requirements of this subpart applicable to a purchasing cooperative.

''SEC. 723A. QUALIFIED ASSOCIATION PLAN DEFINED.

''(a) GENERAL RULE.—For purposes of this chapter, a plan is a qualified association plan if the plan is a multiple employer welfare arrangement or similar arrangement—

''(1) which is maintained by a qualified association;

''(2) which has at least 500 participants in the United States;

''(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

''(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;

''(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

''(6) which notifies each participant or provider that it is certified as meeting the requirements of this chapter applicable to it.

''(b) SELF-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

''(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

''(2) the plan provides an annual funding report (certified by an independent actuary) and annual financial statements to the Secretary and other interested parties; and

''(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

''(c) CERTIFICATION.—

''(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

''(2) FEE.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

''(3) EXPEDITED PROCEDURES.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

''(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

''(d) AVAILABILITY.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

''(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 2001—

''(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

''(2) no original certification shall be required under this subchapter; and

''(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall file with the Secretary a description of the plan and the name of the health insurance issuer.

''SEC. 723B. DEFINITIONS AND SPECIAL RULES.

''(a) QUALIFIED ASSOCIATION.—For purposes of this subchapter, the term 'qualified association' means any organization which—

''(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

''(2) is organized and maintained for substantial purposes other than to provide a health plan;

''(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

''(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

''(b) COORDINATION.—The term 'qualified association plan' shall not include a plan to which subchapter B applies.

''Subchapter B—Special Rule for Church, Multiemployer, and Cooperative Plans

''SEC. 723F. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

''(a) GENERAL RULE.—For purposes of this chapter, in the case of a group health plan to which this section applies—

''(1) except as otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

''(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

''(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

''(b) MODIFIED STANDARDS.—

''(1) CERTIFYING AUTHORITY.—For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

''(2) AVAILABILITY.—Rules similar to the rules of subsection (e) of section 723A shall apply to a plan to which this section applies.

''(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

''(4) TREATMENT UNDER STATE LAWS.—A church plan described in subsection (c)(1) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

''(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which—

''(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

''(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 3(16)(B)(iii) and which has at least 500 participants in the United States; or

''(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association and which has at least 500 participants in the United States.''.

(b) CONFORMING AMENDMENTS.—Section 731(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1186(d)) is amended by adding at the end the following:

''(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

''(4) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to an eligible employee, such employee, and any dependent of such employee.

''(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

''(6) QUALIFIED GROUP HEALTH PLAN.—The term 'qualified group health plan' shall have the meaning given the term in section 721.''.

SEC. 402. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended—

(1) by inserting after the subpart heading the following:

"CHAPTER 1—MISCELLANEOUS REQUIREMENTS";

and

(2) by adding at the end the following:

"CHAPTER 2—GENERAL INSURANCE COVERAGE REFORMS

"Subchapter A—Increased Availability and Continuity of Health Coverage

"SEC. 2707. DEFINITION.

''As used in this chapter, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 2707A(b)).

"SEC. 2707A. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

''(a) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

''(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this chapter, a set of rules which the NAIC determines is sufficient for determining, in the case of any group health plan, or a health insurance issuer offering group health insurance coverage, and for purposes of this section, the actuarial value of the coverage offered by the plan or coverage.

''(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this chapter. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

''(b) STANDARD COVERAGE.—

''(1) IN GENERAL.—A a group health plan, and a health insurance issuer offering group health insurance coverage, shall be considered to provide standard coverage consistent with this subsection if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

''(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

''(A) INITIAL DETERMINATION.—

''(i) IN GENERAL.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this chapter, a target actuarial value for standard coverage equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be considered in such determination by this chapter or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors.

''(ii) COVERAGE DESCRIBED.—The coverage described in this clause is coverage for medically necessary and appropriate services consisting of medical and surgical services, medical equipment, preventive services, and emergency transportation in frontier areas. No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this chapter or through regulations.

''(B) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such value for use under this chapter. If the Secretary determines that a target actuarial value has not been submitted or does not comply with the requirements of subparagraph (A), the Secretary shall promptly determine a target actuarial value that meets such requirements.

''(c) SUBSEQUENT REVISIONS.—

''(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The provisions of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

''(2) SECRETARY.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

"SEC. 2707B. ESTABLISHMENT OF PLAN STANDARDS.

''(a) ESTABLISHMENT OF GENERAL STANDARDS.—

''(1) ROLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this chapter, model regulations that specify standards for making qualified group health plans available to small employers. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary. Such standards shall be nonbinding (except as provided in chapter 4).

''(2) CONTINGENCY.—If the NAIC does not develop such model regulations within the period described in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this chapter, model regulations that specify standards for insurers with regard to making qualified group health plans available to small employers. Such standards shall be nonbinding (except as provided in chapter 4).

''(3) EFFECTIVE DATE.—The standards specified in the model regulations shall apply to group health plans and health insurance issuers offering group health insurance coverage in a State on or after the respective date the standards are implemented in the State.

''(b) NO PREEMPTION OF STATE LAW.—A State may implement standards for group health plans available, and health insurance issuers offering group health insurance coverage offered, to small employers that are more stringent than the standards under this section, except that a State may not implement standards that prevent the offering of at least one group health plan that provides standard coverage (as described in section 2707A(b)).

"SEC. 2707C. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

''(a) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED ELIGIBLE EMPLOYEES AND ELIGIBLE INDIVIDUALS.—

''(1) IN GENERAL.—Each group health plan offered, and each health insurance issuer offering group health insurance coverage, to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 2707A(b)).

''(2) ESTABLISHMENT OF COMMUNITY RATING AREA.—

''(A) IN GENERAL.—Not later than January 1, 2002, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

''(B) GEOGRAPHIC AREA VARIATIONS.—For purposes of subparagraph (A), a State—

''(i) may not identify an area that divides a 3-digit zip code, a county, or all portions of a metropolitan statistical area;

''(ii) shall not permit premium rates for coverage offered in a portion of an interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

''(iii) may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

''(3) ELIGIBLE INDIVIDUALS.—For purposes of this section, the term 'eligible individuals' includes certain uninsured individuals (as described in section 2707G).

''(b) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

''(2) APPLICATION TO ENROLLEES.—

''(A) IN GENERAL.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

''(i) the standard premium (established under paragraph (1));

''(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

''(iii) the age adjustment factor (specified under subparagraph (C)).

''(B) FAMILY ADJUSTMENT FACTOR.—

''(i) IN GENERAL.—The standards established under section 2707B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

''(ii) CLASSES OF ENROLLMENT.—For purposes of this chapter, there are 4 classes of enrollment:

''(I) Coverage only of an individual (referred to in this chapter as the 'individual' enrollment or class of enrollment).

''(II) Coverage of a married couple without children (referred to in this chapter as the 'couple-only' enrollment or class of enrollment).

''(III) Coverage of an individual and one or more children (referred to in this chapter as the 'single parent' enrollment or class of enrollment).

''(IV) Coverage of a married couple and one or more children (referred to in this chapter as the 'dual parent' enrollment or class of enrollment).

''(iii) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this chapter:

''(I) FAMILY.—The terms 'family enrollment' and 'family class of enrollment' refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

''(II) COUPLE.—The term 'couple class of enrollment' refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

''(iv) SPOUSE; MARRIED; COUPLE.—

''(I) IN GENERAL.—In this chapter, the terms 'spouse' and 'married' mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

''(II) COUPLE.—The term 'couple' means an individual and the individual's spouse.

''(C) AGE ADJUSTMENT FACTOR.—The Secretary, in consultation with the NAIC, shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

''(3) ADMINISTRATIVE CHARGES.—

''(A) IN GENERAL.—In accordance with the standards established under section 2707B, a group health plan which covers eligible employees and eligible individuals may add a separately-stated administrative charge which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the same method of enrollment. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a group health plan.

''(B) ENROLLMENT THROUGH A QUALIFIED SMALL EMPLOYER PURCHASING GROUP.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge of such plan for enrollment other than through a qualified small employer purchasing group in such area.

''(c) TREATMENT OF NEGOTIATED RATE AS COMMUNITY RATE.—Notwithstanding any other provision of this section, a group health plan and a health insurance issuer offering health insurance coverage that negotiates a premium rate (exclusive of any administrative charge described in subsection (b)(3)) with a qualified small employer purchasing group in a community rating area shall charge the same premium rate to all eligible employees and eligible individuals.

''SEC. 2707D. RATING PRACTICES AND PAYMENT OF PREMIUMS.

''(a) FULL DISCLOSURE OF RATING PRACTICES.—

''(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall fully disclose rating practices for the plan to the appropriate certifying authority.

''(2) NOTICE ON EXPIRATION.—A group health plan and a health insurance issuer offering health insurance coverage shall provide for notice of the terms for renewal of a plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

''(3) ACTUARIAL CERTIFICATION.—Each group health plan and health insurance issuer offering health insurance coverage shall file annually with the appropriate certifying authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the group health plan or issuer certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such plan or insurer and methods used by the plan or insurer in establishing premium rates and administrative charges for group health plans—

''(A) such plan or insurer is in compliance with the applicable provisions of this chapter; and

''(B) the rating methods are actuarially sound.

Each plan and insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

''(b) PAYMENT OF PREMIUMS.—

''(1) IN GENERAL.—With respect to a new enrollee in a group health plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

''(2) NOTIFICATION OF FAILURE TO RECEIVE PREMIUM.—If a group health plan or a health insurance issuer offering health insurance coverage fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan involved, the plan or issuer shall provide notice of such failure to the employee or individual within the 20-day period after the date on which such premium payment was due. A plan or issuer may not terminate the enrollment of an eligible employee or eligible individual unless such employee or individual has been notified of any overdue premiums and has been provided a reasonable opportunity to respond to such notice.

''SEC. 2707E. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

''(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUPS DESCRIBED.—

''(1) IN GENERAL.—A qualified small employer purchasing group is an entity that—

''(A) is a nonprofit entity certified under State law;

''(B) has a membership consisting solely of small employers;

''(C) is administered solely under the authority and control of its member employers;

''(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as appropriate for such a group;

''(E) offers a program under which qualified group health plans are offered to eligible employees and eligible individuals through its member employers and to certain uninsured individuals in accordance with section 2707D; and

''(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

''(i) does not form or underwrite; and

''(ii) does not hold or control any right to vote with respect to.

''(2) STATE CERTIFICATION.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certification and otherwise ensure compliance with the requirements of this chapter.

''(3) SPECIAL RULE.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State as meeting the requirements of paragraph (1) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

''(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

''(c) DOMICILIARY STATE.—For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

''(2) VOTING.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

''(e) DUTIES OF QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Each qualified small employer purchasing group shall—

''(1) enter into agreements with insurers offering qualified group health plans;

''(2) enter into agreements with small employers under section 2707F;

''(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 2707G;

''(4) provide enrollee information to the State;

''(5) meet the marketing requirements under section 2707I; and

''(6) carry out other functions provided for under this chapter.

''(f) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

''(1) perform any activity involving approval or enforcement of payment rates for providers;

''(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified group health plans with the requirements of this chapter;

''(3) assume financial risk in relation to any such health plan; or

''(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this chapter.

''(g) RULES OF CONSTRUCTION.—

''(1) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

''(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

''(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

''(2) SINGLE ORGANIZATION SERVING MULTIPLE AREAS AND STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

''(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified group health plan exclusively through a qualified small employer purchasing group.

''SEC. 2707F. AGREEMENTS WITH SMALL EMPLOYERS.

''(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

''(b) PAYROLL DEDUCTION.—

''(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee's wages.

''(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient

to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

"SEC. 2707G. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED GROUP HEALTH PLANS.

''(a) IN GENERAL.—Each qualified small employer purchasing group shall offer—

''(1) eligible employees,

''(2) eligible individuals, and

''(3) certain uninsured individuals,

the opportunity to enroll in any qualified group health plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

''(b) UNINSURED INDIVIDUALS.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

"SEC. 2707H. RECEIPT OF PREMIUMS.

''(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified group health plan shall be equal to the sum of—

''(1) the premium rate offered by such health plan;

''(2) the administrative charge for such health plan; and

''(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

''(b) DISCLOSURE OF PREMIUM RATES AND ADMINISTRATIVE CHARGES.—Each qualified small employer purchasing group shall, prior to the time of enrollment, disclose to enrollees and other interested parties the premium rate for a qualified group health plan, the administrative charge for such plan, and the administrative charge of the group, separately.

"SEC. 2707I. MARKETING ACTIVITIES.

''Each qualified small employer purchasing group shall market qualified group health plans to members through the entire community rating area served by the purchasing group.

"SEC. 2707J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

''(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

''(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

''(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating a qualified small employer purchasing group. Such costs may include the costs associated with—

''(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

''(2) soliciting bids and negotiating with insurers to make available group health plans;

''(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

''(4) such other activities determined appropriate by the Secretary.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this section such sums as may be necessary.

"SEC. 2707K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

''A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

"SEC. 2707L. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this chapter.

''(b) EXCEPTION.—The provisions of section 2707C(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this chapter.

"Subchapter B—Required Coverage Options for Eligible Employees and Dependents of Small Employers

"SEC. 2708. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

''(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

''(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

''(2) coverage is provided for at least the standard coverage specified in section 2707A(b); and

''(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

''(c) SPECIAL RULES.—

''(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

''(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

''(B) such employer has no more than 2 eligible employees; or

''(C) no more than 2 eligible employees are not covered under any group health plan.

''(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

''(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

''(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

"SEC. 2708A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

''(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 2722(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

''(b) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if—

''(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

''(2) coverage is provided for at least the standard coverage specified in section 2707A(b);

''(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction; and

''(4) in the case of a plan to which subchapter A does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) of the Employee Retirement Income Security Act of 1974 in the form and manner and at such times as are required under such subchapter A with respect to employee welfare benefit plans.

"Subchapter C—Required Coverage Options for Individuals Insured Through Association Plans

"SEC. 2709. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

''(a) GENERAL RULE.—For purposes of this chapter, in the case of a qualified association plan—

''(1) except as otherwise provided in this subchapter, the plan shall meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

''(2) if such plan is certified as meeting such requirements and the requirements of this subchapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

''(3) any individual who is a member of the association not enrolling in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

''(b) ELECTION TO BE TREATED AS PURCHASING COOPERATIVE.—Subsection (a) shall not apply to a qualified association plan if—

''(1) the health insurance issuer makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of section 2707D; and

''(2) such sponsor meets all requirements of this chapter applicable to a purchasing cooperative.

"SEC. 2709A. QUALIFIED ASSOCIATION PLAN DEFINED.

''(a) GENERAL RULE.—For purposes of this chapter, a plan is a qualified association plan

if the plan is a multiple employer welfare arrangement or similar arrangement—

''(1) which is maintained by a qualified association;

''(2) which has at least 500 participants in the United States;

''(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

''(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;

''(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

''(6) which notifies each participant or provider that it is certified as meeting the requirements of this chapter applicable to it.

''(b) SELF-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

''(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

''(2) the plan provides an annual funding report (certified by an independent actuary) and annual financial statements to the Secretary and other interested parties; and

''(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

''(c) CERTIFICATION.—

''(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

''(2) FEE.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

''(3) EXPEDITED PROCEDURES.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

''(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

''(d) AVAILABILITY.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

''(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 2001—

''(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

''(2) no original certification shall be required under this subchapter; and

''(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall file with the Secretary a description of the plan and the name of the health insurance issuer.

''SEC. 2709B. DEFINITIONS AND SPECIAL RULES.

''(a) QUALIFIED ASSOCIATION.—For purposes of this subchapter, the term 'qualified association' means any organization which—

''(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

''(2) is organized and maintained for substantial purposes other than to provide a health plan;

''(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

''(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

''(b) COORDINATION.—The term 'qualified association plan' shall not include a plan to which subchapter B applies.

''SEC. 2709C. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

''(a) GENERAL RULE.—For purposes of this chapter, in the case of a group health plan to which this section applies—

''(1) except as otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of subchapter A and subchapter B for group health plans offered to and by small employers;

''(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

''(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

''(b) MODIFIED STANDARDS.—

''(1) CERTIFYING AUTHORITY.—For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

''(2) AVAILABILITY.—Rules similar to the rules of subsection (e) of section 2709A shall apply to a plan to which this section applies.

''(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

''(4) TREATMENT UNDER STATE LAWS.—A church plan described in subsection (c)(1) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

''(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which—

''(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

''(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 3(16)(B)(iii) of the Employee Retirement Income Security Act of 1974 and which has at least 500 participants in the United States; or

''(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association and which has at least 500 participants in the United States.''.

(b) CONFORMING AMENDMENTS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

''(16) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to an eligible employee, such employee, and any dependent of such employee.

''(17) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

''(18) QUALIFIED GROUP HEALTH PLAN.—The term 'qualified group health plan' shall have the meaning given the term in section 2707.''.

SEC. 403. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. APPLICABILITY OF GENERAL INSURANCE MARKET REFORMS.

''The provisions of chapter 2 of subpart 2 of part A shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

SEC. 404. EFFECTIVE DATE.

The amendments made by this subtitle shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated on or after January 1, 2002.

Subtitle B—Tax Provisions

SEC. 411. ENFORCEMENT WITH RESPECT TO HEALTH INSURANCE ISSUERS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following:

''SEC. 4980F. FAILURE OF INSURER TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE COVERAGE.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on the failure of a health insurance issuer to comply with the requirements applicable to such issuer under—

''(A) chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

''(B) section 2753 of the Public Health Service Act; and

''(C) subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by a health insurance issuer in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an issuer.

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980D(b)(3) shall apply for purposes of this section.

''(2) LIMITATION.—The amount of the tax imposed by subsection (a) for a health insurance issuer with respect to health insurance coverage shall not exceed 25 percent of the amounts received under the coverage for coverage during the period such failure persists.

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the health insurance issuer.

''(d) LIMITATIONS ON AMOUNT OF TAX.—

''(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the health insurance issuer knows, or exercising reasonable diligence could have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

''(e) DEFINITIONS.—For purposes of this section, the terms 'health insurance coverage' and 'health insurance issuer' have the meanings given such terms in section 2791 of the Public Health Service Act and section 733 of the Employee Retirement Income Security Act of 1974.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 43 is amended by adding at the end the following new item:

''Sec. 4980F. Failure of insurer to comply with certain standards for health insurance coverage.''.

SEC. 412. ENFORCEMENT WITH RESPECT TO SMALL EMPLOYERS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on certain group health plans) is amended by inserting after section 5000 the following new section:

''SEC. 5000A. SMALL EMPLOYER REQUIREMENTS.

''(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any small employer to comply with the requirements applicable to such employer under—

''(1) subchapter C of chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

''(2) section 2753 of the Public Health Service Act; and

''(3) chapter 2 of subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be equal to $100 for each day for each individual for which such a failure occurs.

''(c) LIMITATION ON TAX.—

''(1) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the 1st date any of the individuals on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end the following new item:

''Sec. 5000A. Small employer requirements.''.

SEC. 413. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans), as amended by section 411, is amended by adding at the end the following new section:

''SEC. 4980G. FAILURE OF QUALIFIED ASSOCIATIONS, ETC., TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE COVERAGE.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on the failure of a qualified association (as defined in section 2709A of the Public Health Service Act and section 723A of the Employee Retirement Income Security Act of 1974), church plan (as defined in section 414(e)), multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of the Employee Retirement Income Security Act of 1974) to comply with the requirements applicable to such association or plans under—

''(A) subchapter C of chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

''(B) section 2753 of the Public Health Service Act; and

''(C) subchapters A and B of chapter 3 of subpart C of part 7 of the Employee Retirement Income Security Act of 1974.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by a qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such a qualified association or plan.

''(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980D(b)(3) shall apply for purposes of this section.

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the qualified association or plan.

''(d) LIMITATIONS ON AMOUNT OF TAX.—

''(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association knows, or exercising reasonable diligence could have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 43, as amended by section 411, is amended by adding at the end the following new item:

''Sec. 4980G. Failure of qualified associations, etc., to comply with certain standards for health insurance plans.''.

SEC. 414. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) FULL DEDUCTION IN 2002.—The table contained in section 162(*l*)(1)(B) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking ''2001'' and inserting ''2000'';

(2) by striking ''2002'' and all that follows; and

(3) by adding at the end the following:

''2001	70
''2002 and thereafter	100.''.

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

SEC. 415. AMENDMENTS TO COBRA.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) LOWER COST COVERAGE OPTIONS.—Subparagraph (A) of section 4980B(f)(2) of the Internal Revenue Code of 1986 (relating to continuation coverage requirements of group health plans) is amended to read as follows:

''(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

''(i) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

''(ii) is so identical, except such coverage is offered with an annual $1,000 deductible, and

''(iii) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.''.

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Clause (iv) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended—

(A) by striking ''or'' at the end of subclause (I);

(B) by redesignating subclause (II) as subclause (III); and

(C) by inserting after subclause (I) the following:

''(II) eligible for such employer-based coverage for more than 90 days, or''.

(3) REDUCTION OF PERIOD OF COVERAGE.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by striking ''18 months'' each place it appears and inserting ''24 months''.

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(VI) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in paragraph (3)(E), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) LOWER COST COVERAGE OPTIONS.—Paragraph (1) of section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1)) (relating to continuation coverage requirements of group health plans) is amended to read as follows:

''(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

''(A) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

''(B) is so identical, except such coverage is offered with an annual $1,000 deductible, and

''(C) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.''.

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Subparagraph (D) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)) (relating to period of coverage) is amended—

(A) by striking ''or'' at the end of clause (i);

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) eligible for such employer-based coverage for more than 90 days, or''.

(3) REDUCTION OF PERIOD OF COVERAGE.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) (relating to period of coverage) is amended by striking ''18 months'' each place it appears and inserting ''24 months''.

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following:

''(vi) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in section 603(5), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.''.

(c) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—

(1) LOWER COST COVERAGE OPTIONS.—Paragraph (1) of section 2202 of the Public Health Service Act (42 U.S.C. 300bb–2(1)) (relating to continuation coverage requirements of group health plans) is amended to read as follows:

''(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

''(A) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

''(B) is so identical, except such coverage is offered with an annual $1,000 deductible, and

''(C) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.''.

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Subparagraph (D) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)) (relating to period of coverage) is amended—

(A) by striking ''or'' at the end of clause (i);

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) eligible for such employer-based coverage for more than 90 days, or''.

(3) REDUCTION OF PERIOD OF COVERAGE.—Subparagraph (A) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) (relating to period of coverage) is amended by striking ''18 months'' each place it appears and inserting ''24 months''.

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Subparagraph (A) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) is amended by adding at the end the following:

''(vi) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in section 2203(5), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.''.

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

TITLE V—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 501. IMPROVEMENT OF MEDICARE PREVENTIVE CARE SERVICES.

(a) WAIVER OF COINSURANCE FOR SCREENING AND DIAGNOSTIC MAMMOGRAPHY.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 223(c) 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), is amended—

(A) by striking ''and (U)'' and inserting ''(U)''; and

(B) by striking the semicolon at the end and inserting the following: '', and (V) with respect to screening mammography (as defined in section 1861(jj)) and diagnostic mammography, 100 percent of the payment basis determined under section 1848;''.

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after ''1861(s)(10)(A)'' the following: '', with respect to screening mammography (as defined in section 1861(jj)) and diagnostic mammography,''.

(b) COVERAGE OF INSULIN PUMPS.—

(1) INCLUSION AS ITEM OF DURABLE MEDICAL EQUIPMENT.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: '', and includes insulin infusion pumps (as defined in subsection (ww)) prescribed by the physician of an individual with Type I diabetes who is experiencing severe swings of high and low blood glucose levels and has successfully completed a training program that meets standards established by the Secretary or who has used such a pump without interruption for at least 18 months immediately before enrollment under part B''.

(2) DEFINITION OF INSULIN INFUSION PUMP.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 105(b) 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), is amended by adding at the end the following:

''Insulin Infusion Pump

''(ww) The term 'insulin infusion pump' means an infusion pump, approved by the Federal Food and Drug Administration, that provides for the computerized delivery of insulin for individuals with diabetes in lieu of multiple daily manual insulin injections.''.

(3) PAYMENT FOR SUPPLIES RELATING TO INFUSION PUMPS.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) in clause (ii), by striking ''or'' at the end;

(B) in clause (iii), by inserting ''or'' at the end; and

(C) by inserting after clause (iii) the following:

''(iv) which is an accessory used in conjunction with an insulin infusion pump (as defined in section 1861(ww)),''.

(c) ANNUAL SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) IN GENERAL.—Section 1861(nn) of the Social Security Act (42 U.S.C. 1395x(nn)), as amended by section 101(a) 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), is amended to read as follows:

''Screening Pap Smear; Screening Pelvic Exam

''(nn)(1) The term 'screening pap smear' means a diagnostic laboratory test consisting of a routine exfoliative cytology test (Papanicolaou test) provided to a woman for the purpose of early detection of cervical or vaginal cancer and includes a physician's interpretation of the results of the test, if the individual involved has not had such a test during the preceding year.

''(2) The term 'screening pelvic exam' means a pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding year, and includes a clinical breast examination, relevant history-taking, medical decision-making, and patient counseling.''.

(2) WAIVER OF COINSURANCE FOR PELVIC EXAMS.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (a)(1) and section 223(c) 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), is amended—

(A) by striking ''and (V)'' and inserting ''(V)''; and

(B) by striking the semicolon at the end and inserting the following: '', and (W) with respect to services described in section 1861(nn)(2), 100 percent of the payment basis determined under section 1848;''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the first day of the first calendar quarter beginning on or after the date that is 6 months after the date of enactment of this Act.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS FOR HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $115,000,000 for fiscal year 2002, $150,000,000 for fiscal year 2003, $250,000,000 for fiscal year 2004, and $300,000,000 for each of the fiscal years 2005 through 2007.

(b) MODEL PROJECTS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $50,000,000 for such fiscal year to be distributed to model projects determined to be eligible under paragraph (2).

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), a model project shall—

(A) have been one of the original 15 Healthy Start projects; and

(B) be determined by Secretary of Health and Human Services to have been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A model project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(4) PROVISION OF MATCHING FUNDS.—In providing assistance to a project under this subsection, the Secretary of Health and Human Services shall ensure that—

(A) with respect to fiscal year 2002, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 20 percent of such costs;

(B) with respect to fiscal year 2003, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 30 percent of such costs;

(C) with respect to fiscal year 2004, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 40 percent of such costs; and

(D) with respect to each of the fiscal years 2005 through 2007, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 50 percent of such costs for each such fiscal year.

(c) NEW PROJECTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate amounts remaining after the reservation under subsection (b) for such fiscal year among new demonstration projects and existing special projects that have proven to be successful as determined by the Secretary of Health and Human Services. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

SEC. 503. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247b(j)(1)), as amended by section 1711 of the Children's Health Act of 2000 (Public Law 106-310), is amended by striking ''2005'' and inserting ''2007''.

(b) SEXUALLY TRANSMITTED DISEASES.—Section 318(e)(1) of the Public Health Service Act (42 U.S.C. 247c(e)(1)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums'';

(2) by striking ''1998'' and inserting ''2001''; and

(3) by inserting before the period the following: '', $130,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006''.

(c) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking ''and $158,400,000'' and inserting ''$158,400,000''; and

(2) by inserting before the period the following: ''; $430,000,000 for fiscal year 2002; and such sums as may be necessary for each of the fiscal years 2003 through 2005''.

(d) BREAST AND CERVICAL CANCER PREVENTION.—Section 1510(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by inserting before the period the following: '', $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2005''.

(e) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking ''$205,000,000'' and inserting ''$235,000,000''.

(f) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking ''fiscal year 2001 and each fiscal year thereafter'' and inserting ''each of fiscal years 2001 and 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2005''.

SEC. 504. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive school health education and prevention program for elementary and secondary school students.

(b) PROGRAM AUTHORIZED.—The Secretary of Education (referred to in this section as the ''Secretary''), through the Office of Comprehensive School Health Education established in subsection (e), shall award grants to States from allotments under subsection (c) to enable such States to—

(1) award grants to local or intermediate educational agencies, and consortia thereof, to enable such agencies or consortia to establish, operate, and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

(2) develop training, technical assistance, and coordination activities for the programs assisted pursuant to paragraph (1).

(c) RESERVATIONS AND STATE ALLOTMENTS.—

(1) RESERVATIONS.—From the sums appropriated pursuant to the authority of subsection (f) for any fiscal year, the Secretary shall reserve—

(A) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Northern Mariana Islands, and the Republic of Palau, to be allotted in accordance with their respective needs; and

(B) 1 percent for payments to the Bureau of Indian Affairs.

(2) STATE ALLOTMENTS.—From the remainder of the sums not reserved under paragraph (1), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (2).

(d) USE OF FUNDS.—Grant funds provided to local or intermediate educational agencies, or consortia thereof, under this section may be used to improve elementary and secondary education in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) nutrition;

(5) substance use and abuse;

(6) accident prevention and safety;

(7) community and environmental health;

(8) mental and emotional health;

(9) parenting and the challenges of raising children; and

(10) the effective use of the health services delivery system.

(e) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary shall establish within the Office of the Secretary an Office of Comprehensive School Health Education which shall have the following responsibilities:

(1) To recommend mechanisms for the coordination of school health education programs conducted by the various departments and agencies of the Federal Government.

(2) To advise the Secretary on formulation of school health education policy within the Department of Education.

(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) in any fiscal year shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

SEC. 505. COMPREHENSIVE EARLY CHILDHOOD HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive early childhood health education program.

(b) PROGRAM.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall conduct a program of awarding grants to agencies conducting Head Start training to enable such agencies to provide training and technical assistance to Head Start teachers and other child care providers. Such program shall—

(1) establish a training system through the Head Start agencies and organizations conducting Head Start training for the purpose of enhancing teacher skills and providing comprehensive early childhood health education curriculum;

(2) enable such agencies and organizations to provide training to day care providers in order to strengthen the skills of the early childhood workforce in providing health education;

(3) provide technical support for health education programs and curricula; and

(4) provide cooperation with other early childhood providers to ensure coordination of such programs and the transition of students into the public school environment.

(c) USE OF FUNDS.—Grant funds under this section may be used to provide training and technical assistance in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) dental health;

(5) nutrition;

(6) substance use and abuse;

(7) accident prevention and safety;

(8) community and environmental health;

(9) mental and emotional health; and

(10) strengthening the role of parent involvement.

(d) RESERVATION FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the funds appropriated pursuant to the authority of subsection (e) in each fiscal year for the development of innovative model health education programs or curricula.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

SEC. 506. ADOLESCENT FAMILY LIFE AND ABSTINENCE.

(a) DEFINITIONS.—Section 2002(a)(4)(G)(i) of the Public Health Service Act (42 U.S.C. 300z–1(a)(4)(G)(i)) is amended by inserting ''and abstinence'' after ''adoption''.

(b) GEOGRAPHIC DIVERSITY.—Section 2005 of the Public Health Service Act (42 U.S.C. 300z–4) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) In approving applications for grants for demonstration projects for services under

this title, the Secretary shall, to the maximum extent practicable, ensure adequate representation of both urban and rural areas.''.

(c) SIMPLIFIED APPLICATION PROCESS.—Section 2006 of the Public Health Service Act (42 U.S.C. 300z–5) is amended by adding at the end following:

''(g) The Secretary shall develop and implement a simplified and expedited application process for applicants seeking less than $15,000 of funds available under this title for a demonstration project.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2010(a) of the Public Health Service Act (42 U.S.C. 300z–9) is amended to read as follows:

''(a) For the purpose of carrying out this title, there are authorized to be appropriated $75,000,000 for each of the fiscal years 2002 through 2006.''.

TITLE VI—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

SEC. 601. PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT.

(a) RIGHT TO DECLINE MEDICAL TREATMENT.—

(1) RIGHTS OF COMPETENT ADULTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State may not restrict the right of a competent adult to consent to, or to decline, medical treatment.

(B) LIMITATIONS.—

(i) AFFECT ON THIRD PARTIES.—A State may impose limitations on the right of a competent adult to decline treatment if such limitations protect third parties (including minor children) from harm.

(ii) TREATMENT WHICH IS NOT MEDICALLY INDICATED.—Nothing in this subsection shall be construed to require that any individual be offered, or to state that any individual may demand, medical treatment which the health care provider does not have available, or which is, under prevailing medical standards, either futile or otherwise not medically indicated.

(2) RIGHTS OF INCAPACITATED ADULTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)(i) of paragraph (1), States may not restrict the right of an incapacitated adult to consent to, or to decline, medical treatment as exercised through the documents specified in this paragraph, or through similar documents or other written methods of directive which evidence the adult's treatment choices.

(B) ADVANCE DIRECTIVES AND POWERS OF ATTORNEY.—

(i) IN GENERAL.—In order to facilitate the communication, despite incapacity, of an adult's treatment choices, the Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in consultation with the Attorney General, shall develop a national advance directive form that—

(I) shall not limit or otherwise restrict, except as provided in subparagraph (B)(i) of paragraph (1), an adult's right to consent to, or to decline, medical treatment; and

(II) shall, at minimum—

(aa) provide the means for an adult to declare such adult's own treatment choices in the event of a terminal condition;

(bb) provide the means for an adult to declare, at such adult's option, treatment choices in the event of other conditions which are medically incurable, and from which such adult likely will not recover; and

(cc) provide the means by which an adult may, at such adult's option, declare such adult's wishes with respect to all forms of medical treatment, including forms of medical treatment such as the provision of nutrition and hydration by artificial means which may be, in some circumstances, relatively nonburdensome.

(ii) NATIONAL DURABLE POWER OF ATTORNEY FORM.—The Secretary, in consultation with the Attorney General, shall develop a national durable power of attorney form for health care decisionmaking. The form shall provide a means for any adult to designate another adult or adults to exercise the same decisionmaking powers which would otherwise be exercised by the patient if the patient were competent.

(iii) HONORED BY ALL HEALTH CARE PROVIDERS.—The national advance directive and durable power of attorney forms developed by the Secretary shall be honored by all health care providers.

(iv) LIMITATIONS.—No individual shall be required to execute an advance directive. This section makes no presumption concerning the intention of an individual who has not executed an advance directive. An advance directive shall be sufficient, but not necessary, proof of an adult's treatment choices with respect to the circumstances addressed in the advance directive.

(C) DEFINITION.—For purposes of this paragraph, the term ''incapacity'' means the inability to understand or to communicate concerning the nature and consequences of a health care decision (including the intended benefits and foreseeable risks of, and alternatives to, proposed treatment options), and to reach an informed decision concerning health care.

(3) HEALTH CARE PROVIDERS.—

(A) IN GENERAL.—No health care provider may provide treatment to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices. A health care provider who acts in good faith pursuant to the preceding sentence shall be immune from criminal or civil liability or discipline for professional misconduct.

(B) HEALTH CARE PROVIDERS UNDER THE MEDICARE AND MEDICAID PROGRAMS.—Any health care provider who knowingly provides services to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices, shall be denied payment for such services under titles XVIII and XIX of the Social Security Act.

(C) TRANSFERS.—Health care providers who object to the provision of medical care in accordance with an adult's wishes shall transfer the adult to the care of another health care provider.

(4) DEFINITION.—For purposes of this subsection, the term ''adult'' means—

(A) an individual who is 18 years of age or older; or

(B) an emancipated minor.

(b) FEDERAL RIGHT ENFORCEABLE IN FEDERAL COURTS.—The rights recognized in this section may be enforced by filing a civil action in an appropriate district court of the United States.

(c) SUICIDE AND HOMICIDE.—Nothing in this section shall be construed to permit, condone, authorize, or approve suicide or mercy killing, or any affirmative act to end a human life.

(d) RIGHTS GRANTED BY STATES.—Nothing in this section shall impair or supersede rights granted by State law which exceed the rights recognized by this section.

(e) EFFECT ON OTHER LAWS.—

(1) IN GENERAL.—Except as specified in paragraph (2), written policies and written information adopted by health care providers pursuant to sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), shall be modified within 6 months after the enactment of this section to conform to the provisions of this section.

(2) DELAY PERIOD FOR UNIFORM FORMS.—Health care providers shall modify any written forms distributed as written information under sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) not later than 6 months after promulgation of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B) by the Secretary.

(f) INFORMATION PROVIDED TO CERTAIN INDIVIDUALS.—The Secretary shall provide on a periodic basis written information regarding an individual's right to consent to, or to decline, medical treatment as provided in this section to individuals who are beneficiaries under titles II, XVI, XVIII, and XIX of the Social Security Act.

(g) RECOMMENDATIONS TO CONGRESS ON ISSUES RELATING TO A PATIENT'S RIGHT OF SELF-DETERMINATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for a period of 3 years, the Secretary shall provide recommendations to Congress concerning the medical, legal, ethical, social, and educational issues related to in this section. In developing recommendations under this subsection the Secretary shall address the following issues:

(1) The contents of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B).

(2) Issues pertaining to the education and training of health care professionals concerning patients' self-determination rights.

(3) Issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options.

(4) Issues pertaining to the education of patients concerning their rights to consent to, and decline, treatment, including how individuals might best be informed of such rights prior to hospitalization and how uninsured individuals, and individuals not under the regular care of a physician or another provider, might best be informed of their rights.

(5) Issues relating to appropriate standards to be adopted concerning decisionmaking by incapacitated adult patients whose treatment choices are not known.

(6) Such other issues as the Secretary may identify.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date that is 6 months after the date of enactment of this Act.

(2) SUBSECTION (g).—The provisions of subsection (g) shall take effect on the date of enactment of this Act.

TITLE VII—PRIMARY AND PREVENTIVE CARE PROVIDERS

SEC. 701. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.

(a) FEE SCHEDULE AMOUNT.—Section 1833(a)(1)(O) of the Social Security Act (42 U.S.C. 13951(a)(1)(O)) is amended by striking ''85 percent'' and inserting ''90 percent'' each place it appears.

(b) TECHNICAL AMENDMENT.—Section 1833(a)(1)(O) of the Social Security Act (42 U.S.C. 13951(a)(1)(O)) is amended by striking ''clinic'' and inserting ''clinical''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 2002.

SEC. 702. REQUIRING COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 301(c)(1), is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) by redesignating paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27) the following:

''(28) services furnished by a physician assistant, nurse practitioner, clinical nurse specialist (as defined in section 1861(aa)(5)), or certified registered nurse anesthetist (as defined in section 1861(bb)(2)); and''.

(b) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 301(c)(3), is amended by striking ''and (27)'' and inserting '', (27), and (28)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) beginning with the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 703. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293j et seq.) is amended by adding at the end thereof the following:

''SEC. 749. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical students for tutorial programs or as participants in clinics designed to interest high school or college students in careers in general medical practice.

''(b) APPLICATION.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be used to—

''(A) fund programs under which students of the grantee are provided as tutors for high school and college students in the areas of mathematics, science, health promotion and prevention, first aide, nutrition and prenatal care;

''(B) fund programs under which students of the grantee are provided as participants in clinics and seminars in the areas described in paragraph (1); and

''(C) conduct summer institutes for high school and college students to promote careers in medicine.

''(2) DESIGN OF PROGRAMS.—The programs, institutes, and other activities conducted by grantees under paragraph (1) shall be designed to—

''(A) give medical students desiring to practice general medicine access to the local community;

''(B) provide information to high school and college students concerning medical school and the general practice of medicine; and

''(C) promote careers in general medicine.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal year 2003.''.

SEC. 704. GENERAL MEDICAL PRACTICE GRANTS.

Part C of title VII of the Public Health Service Act (as amended by section 703) is further amended by adding at the end thereof the following:

''SEC. 749A. GENERAL MEDICAL PRACTICE GRANTS.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible public or private nonprofit schools of medicine or osteopathic medicine, hospitals, residency programs in family medicine or pediatrics, or to a consortium of such entities, to enable such entities to develop effective strategies for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

''(b) APPLICATION.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the entity will use amounts received under the grant in accordance with subsection (c).

''(c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be used to fund programs under which effective strategies are developed and implemented for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of the fiscal years 2002 through 2004, and such sums as may be necessary for fiscal years thereafter.''.

TITLE VIII—SAFE AND COST-EFFECTIVE MEDICAL TREATMENT

SEC. 801. ENHANCING INVESTMENT IN COST-EFFECTIVE METHODS OF HEALTH CARE.

(a) Establishment of Trust Fund for Medical Treatment Outcomes Research.—

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

''SEC. 9511. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

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

''(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4491 (relating to tax on health insurance policies).

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis and without further appropriation the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services for use by the Agency for Healthcare Research and Quality. Such amounts shall be available to pay for research activities related to medical treatment outcomes and shall be in addition to any other amounts appropriated for such purposes.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following:

''Sec. 9511. Trust Fund for Medical Treatment Outcomes Research.''.

(b) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—

(1) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end the following:

''Subchapter F—Tax on Health Insurance Policies

''Sec. 4491. Imposition of tax.

''Sec. 4492. Liability for tax.

''SEC. 4491. IMPOSITION OF TAX.

''(a) GENERAL RULE.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

''(b) DEFINITION.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

''SEC. 4492. LIABILITY FOR TAX.

''The tax imposed by this subchapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end the following:

''SUBCHAPTER F. Tax on health insurance policies.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued after December 31, 2001.

SEC. 802. MEDICAL ERRORS REDUCTION.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(3) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(4) by inserting after part B the following:

''PART C—REDUCING ERRORS IN HEALTH CARE

''SEC. 921. DEFINITIONS.

''In this part:

''(1) ADVERSE EVENT.—The term 'adverse event' means an injury resulting from medical management rather than the underlying condition of the patient.

''(2) ERROR.—The term 'error' means the failure of a planned action to be completed as intended or the use of a wrong plan to achieve the desired outcome.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or entity that provides medical services and is a participant in a demonstration program under this part.

''(4) HEALTH CARE-RELATED ERROR.—The term ''health care-related error'' means a preventable adverse event related to a health care intervention or a failure to intervene appropriately.

''(5) MEDICATION-RELATED ERROR.—The term 'medication-related error' means a preventable adverse event related to the administration of a medication.

''(6) SAFETY.—The term 'safety' with respect to an individual means that such individual has a right to be free from preventable serious injury.

''(7) SENTINEL EVENT.—The term 'sentinel event' means an unexpected occurrence involving an individual that results in death or serious physical injury that is unrelated to the natural course of the individual's illness or underlying condition.

''SEC. 922. ESTABLISHMENT OF STATE-BASED MEDICAL ERROR REPORTING SYSTEMS.

''(a) IN GENERAL.—The Secretary shall make grants available to States to enable

such States to establish reporting systems designed to reduce medical errors and improve health care quality.

''(b) REQUIREMENT.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), the State involved shall provide assurances to the Secretary that amounts received under the grant will be used to establish and implement a medical error reporting system using guidelines (including guidelines relating to the confidentiality of the reporting system) developed by the Agency for Healthcare Research and Quality with input from interested, non-governmental parties including patient, consumer and health care provider groups.

''(2) GUIDELINES.—Not later than 90 days after the date of enactment of this part, the Agency for Healthcare Research and Quality shall develop and publish the guidelines described in paragraph (1).

''(c) DATA.—

''(1) AVAILABILITY.—A State that receives a grant under subsection (a) shall make the data provided to the medical error reporting system involved available only to the Agency for Healthcare Research and Quality and may not otherwise disclose such information.

''(2) CONFIDENTIALITY.—Nothing in this part shall be construed to supersede any State law that is inconsistent with this part.

''(d) APPLICATION.—To be eligible for a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner and containing, such information as the Secretary shall require.

''SEC. 923. DEMONSTRATION PROJECTS TO REDUCE MEDICAL ERRORS, IMPROVE PATIENT SAFETY, AND EVALUATE REPORTING.

''(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality and in conjunction with the Administrator of the Health Care Financing Administration, may establish a program under which funding will be provided for not less than 15 demonstration projects, to be competitively awarded, in health care facilities and organizations in geographically diverse locations, including rural and urban areas (as determined by the Secretary), to determine the causes of medical errors and to—

''(1) use technology, staff training, and other methods to reduce such errors;

''(2) develop replicable models that minimize the frequency and severity of medical errors;

''(3) develop mechanisms that encourage reporting, prompt review, and corrective action with respect to medical errors; and

''(4) develop methods to minimize any additional paperwork burden on health care professionals.

''(b) ACTIVITIES.—

''(1) IN GENERAL.—A health care provider participating in a demonstration project under subsection (a) shall—

''(A) utilize all available and appropriate technologies to reduce the probability of future medical errors; and

''(B) carry out other activities consistent with subsection (a).

''(2) REPORTING TO PATIENTS.—In carrying out this section, the Secretary shall ensure that—

''(A) 5 of the demonstration projects permit the voluntary reporting by participating health care providers of any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary;

''(B) 5 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary; and

''(C) 5 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary and to the patient involved and a family member or guardian of the patient.

''(3) CONFIDENTIALITY.—

''(A) IN GENERAL.—The Secretary and the participating grantee organization shall ensure that information reported under this section remains confidential.

''(B) USE.—The Secretary may use the information reported under this section only for the purpose of evaluating the ability to reduce errors in the delivery of care. Such information shall not be used for enforcement purposes.

''(C) DISCLOSURE.—The Secretary may not disclose the information reported under this section.

''(D) NONADMISSIBILITY.—Information reported under this section shall be privileged, confidential, shall not be admissible as evidence or discoverable in any civil or criminal action or proceeding or subject to disclosure, and shall not be subject to the Freedom of Information Act (5 U.S.C. App). This paragraph shall apply to all information maintained by the reporting entity and the entities who receive such reports.

''(c) USE OF TECHNOLOGIES.—The Secretary shall encourage, as part of the demonstration projects conducted under subsection (a), the use of appropriate technologies to reduce medical errors, such as hand-held electronic prescription pads, training simulators for medical education, and bar-coding of prescription drugs and patient bracelets.

''(d) DATABASE.—The Secretary shall provide for the establishment and operation of a national database of medical errors to be used as provided for by the Secretary. The information provided to the Secretary under subsection (b)(2) shall be contained in the database.

''(e) EVALUATION.—The Secretary shall evaluate the progress of each demonstration project established under this section in reducing the incidence of medical errors and submit the results of such evaluations as part of the reports under section 926(b).

''(f) REPORTING.—Prior to October 1, of the third fiscal year for which funds are made available under this section, the Secretary shall prepare and submit to the appropriate committees of Congress an interim report concerning the results of such demonstration projects.

''SEC. 924. PATIENT SAFETY IMPROVEMENT.

''(a) IN GENERAL.—The Secretary shall provide information to educate patients and family members about their role in reducing medical errors. Such information shall be provided to all individuals who participate in Federally-funded health care programs.

''(b) DEVELOPMENT OF PROGRAMS.—The Secretary shall develop programs that encourage patients to take a more active role in their medical treatment, including encouraging patients to provide information to health care providers concerning pre-existing conditions and medications.

''SEC. 925. PRIVATE, NONPROFIT EFFORTS TO REDUCE MEDICAL ERRORS.

''(a) IN GENERAL.—The Secretary shall make grants to health professional associations and other organizations to provide training in ways to reduce medical errors, including curriculum development, technology training, and continuing medical education.

''(b) APPLICATION.—To be eligible for a grant under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing, such information as the Secretary shall require.

''SEC. 926. REPORT TO CONGRESS.

''(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs associated with implementing a program that identifies factors that contribute to errors and which includes upgrading the health care computer systems and other technologies in the United States in order to reduce medical errors, including computerizing hospital systems for the coordination of prescription drugs and handling of laboratory specimens, and contains recommendation on ways in which to reduce those factors.

''(b) OTHER REPORTS.—Not later than 180 days after the completion of all demonstration projects under section 923, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

''(1) how successful each demonstration project was in reducing medical errors;

''(2) the data submitted by States under section 922(c);

''(3) the best methods for reducing medical errors;

''(4) the costs associated with applying such best methods on a nationwide basis; and

''(5) the manner in which other Federal agencies can share information on best practices in order to reduce medical errors in all Federal health care programs.

''SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary to carry out this part.''.

TITLE IX—TAX INCENTIVES FOR PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE

SEC. 901. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following:

''SEC. 35. LONG-TERM CARE INSURANCE CREDIT.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) paid during such taxable year for such individual or the spouse of such individual.

''(b) APPLICABLE PERCENTAGE.—

''(1) IN GENERAL.—For purposes of this section, the term 'applicable percentage' means 28 percent reduced (but not below zero) by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the base amount.

''(2) BASE AMOUNT.—For purposes of paragraph (1) the term 'base amount' means—

''(A) except as otherwise provided in this paragraph, $25,000,

''(B) $40,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer who—

''(i) is married at the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such taxable year, and

''(ii) does not live apart from the taxpayer's spouse at all times during the taxable year.

''(c) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount allowed as a credit

under this section shall not be taken into account under section 213.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following:

''Sec. 35. Long-term care insurance credit.

''Sec. 36. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 902. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—The last sentence of section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking ''shall not'' and inserting ''shall''.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c) of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended—

(1) in paragraph (1), by striking ''include'' and inserting ''shall not''; and

(2) in the heading, by striking ''INCLUSION'' and inserting ''EXCLUSION''.

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

SEC. 903. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION OF LIFE INSURANCE POLICIES AND USED FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—

(1) EXCLUSION FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

''SEC. 139. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

''No amount (which but for this section would be includible in the gross income of an individual) shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

''(1) such individual has attained age 59½ on or before the date of the transaction, and

''(2) the amount otherwise includible in gross income is used during such year to pay for any qualified long-term care insurance contract (as defined in section 7702B(b)) which—

''(A) is for the benefit of such individual or the spouse of such individual if such spouse has attained age 59½ on or before the date of the transaction, and

''(B) may not be surrendered for cash.''.

(B) CONFORMING AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 139 and inserting the following:

''Sec. 139. Amounts received on cancellation, etc. of life insurance contracts and used to pay premiums for qualified long-term care insurance.

''Sec. 140. Cross references to other Acts.''.

(2) CERTAIN EXCHANGES NOT TAXABLE.—Section 1035(a) of such Code (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting ''; or'', and by adding at the end the following:

''(4) in the case of an individual who has attained age 59½, a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b)), if the qualified long-term care insurance contract may not be surrendered for cash.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 904. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE.

(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal) is amended by adding at the end the following:

''(9) ELIGIBILITY OF HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION FOR EXCLUSION.—

''(A) IN GENERAL.—For purposes of this section, the term 'sale or exchange' includes a home equity conversion sale-leaseback transaction.

''(B) HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION.—For purposes of subparagraph (A), the term 'home equity conversion sale-leaseback' means a transaction in which—

''(i) the seller-lessee—

''(I) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 2 years or more,

''(II) uses a portion of the proceeds from such sale to purchase a qualified long-term care insurance contract (as defined in section 7702B(b)), which contract may not be surrendered for cash,

''(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

''(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

''(ii) the purchaser-lessor—

''(I) is a person,

''(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

''(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

''(C) ADDITIONAL DEFINITIONS.—For purposes of subparagraph (B)—

''(i) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly held occupancy rights).

''(ii) FAIR RENTAL.—The term 'fair rental' means a rental for any subsequent year which equals or exceeds the rental for the 1st year of a sale-leaseback transaction.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 2001, in taxable years beginning after such date.

TITLE X—NATIONAL FUND FOR HEALTH RESEARCH

SEC. 1001. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''National Fund for Health Research'' (in this section referred to as the ''Fund''), consisting of such amounts as are transferred to the Fund under subsection (b) and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to amounts designated under paragraph (2) and received in the Treasury.

(2) AMOUNTS.—

(A) HEALTH PLAN SET ASIDE.—With respect to each calendar year beginning with the first full calendar year after the date of enactment of this Act, each health plan shall set aside and transfer to the Treasury of the United States an amount equal to—

(i) for the first full calendar year, 0.25 percent of all health premiums received with respect to the plan for such year;

(ii) for the second full calendar year, 0.5 percent of all health premiums received with respect to the plan for such year;

(iii) for the third full calendar year, 0.75 percent of all health premiums received with respect to the plan for such year; and

(iv) for the fourth and each succeeding full calendar year, 1 percent of all health premiums received with respect to the plan for such year.

(3) TRANSFERS BASED ON ESTIMATES.—The amounts transferred by paragraph (1) shall annually be transferred to the Fund within 30 days after the President signs an appropriations Act for the Departments of Labor, Health and Human Services, and Education, and related agencies, or by the end of the first quarter of the fiscal year. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(4) DEFINITION.—As used in this subsection, the term ''health plan'' means a group health plan (as defined in section 2791(a) of the Public Health Service Act and any individual health insurance (as defined in section 2791(b)(5) of such Act) operated by a health insurance issuer.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health

in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES AND PHASE-IN.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(B) PHASE-IN.—The Secretary of Health and Human Services shall phase-in the distributions required under paragraph (1) so that—

(i) 25 percent of the amount in the Fund is distributed in the first fiscal year for which funds are available;

(ii) 50 percent of the amount in the Fund is distributed in the second fiscal year for which funds are available;

(iii) 75 percent of the amount in the Fund is distributed in the third fiscal year for which funds are available; and

(iv) 100 percent of the amount in the Fund is distributed in the fourth and each succeeding fiscal year for which funds are available.

(d) BUDGET TREATMENT OF AMOUNTS IN FUND.—The amounts in the Fund shall be excluded from, and shall not be taken into account, for purposes of any budget enforcement procedure under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

HEALTH CARE ASSURANCE ACT OF 2001—SUMMARY

Title I: Expanded Medicaid Coverage for Low-Income Individuals

Current law only guarantees coverage for pregnant women and infants who earn up to 133% of the Federal level poverty ($11,105 for a single/$22,676 for a family of four). Beyond that population, the Federal mandate varies across age, income, and disability status; for instance, there are different federal mandates for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal contributions for coverage for individuals who earn up to 133% of the federal poverty line, regardless of age or other status. States would then have the option, as they have under the State Child Health Insurance Programs (SCHIP), to cover individuals all the way up to 200% of the federal poverty level ($16,700 for a single/$34,100 for a family of four). Unlike SCHIP, however, the states will not receive an enhanced Federal match.

Title II: Expanded State Child Health Insurance Program

This title will expand upon the State Child Health Insurance Program (SCHIP), the new program established in the Balanced Budget Act of 1997 which allocates $24 billion/five years to increase health insurance coverage for children. The SCHIP program gives States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. These grants are distributed to participating States based on the number of uninsured children residing there. This title would increase the income eligibility to families with incomes at or below 235% of the Federal poverty level ($40,067 annually for a family of four).

Title III: Expanded Health Services for Disabled Individuals

Expansion of Community-Based Attendant Care Services and Supports: Medicaid currently covers the costs associated with institutional care for disabled individuals. In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this section would allow for reimbursement for community-based attendant care services and supports, instead of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability.

Title IV: General Health Insurance Coverage Provisions

Tax Equity for the Self-Employed: Under current law, self-employed persons may deduct 60% of their health insurance costs through 2002, and those costs would be fully deductible in 2003. However, all other employees may already deduct 100% of such costs. Title III would speed up the phase-in: health insurance costs would be 70% deductible in 2001 and fully deductible in 2002, thereby giving the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.

Small Employer and Individual Purchasing Groups: Establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard, actuarially equivalent health benefits package; (2) adjust community rated premiums by age and family size in order to spread risk and provide price equity to all; and (3) meet certain other guidelines involving marketing practices.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

COBRA Portability Reform: For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, Title III reforms the existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA may cover individuals through their former employers' plan, and extending to 36 months the time period in which a child who is no longer a dependent under a parent's health insurance policy may receive coverage; (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—saving a typical family of four 20% in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52% in monthly premiums.

Title V: Primary and Preventive Care Services

New Medicare preventive Care Services: The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. This provision institutes new preventive benefits within the Medicare program, and refines and strengthens existing ones. Under this provision, Medicare would cover yearly pap smears, pelvic exams, and screening and diagnostic mammography for women, with no copayment of part B deductible; and cover insulin pumps for certain Type I Diabetics.

Primary Health and Education Assistance Programs: The Department of Health and Human Service administers many programs designed to increase access to primary and preventive care. This provision provides increased authorization for several existing preventive health programs such as breast and cervical cancer prevention, Healthy Start project grants aimed at reducing infant mortality and low weight births and to improve the health and well-being of mothers and their families, pregnant women and infants, and childhood immunizations. This section also authorizes a new grant program for local education agencies and pre-school programs to provide comprehensive health education, and reauthorizes the Adolescent Family Life (AFL) program (Title XX) for the first time since 1984. The AFL program provides funding for initiatives focusing directly on abstinence education.

Title VI: Patient's Right to Decline Medical Treatment

Improves the effectiveness and portability of advance directives by strengthening the federal law regarding patient self-determination and establishing uniform federal forms with regard to self-determination.

Title VII: Primary and Preventive Care Providers

Encourages use of non-physician providers such as nurse practitioners, physician assistants, and clinical nurse specialists by increasing direct reimbursement under Medicare and Medicaid without regard to the setting where services are provided. Title VI also seeks to encourage students early on in their medical training to pursue a career in primary care and it provides assistance to medical training programs to recruit such students.

Title VIII: Cost Containment

Investment in Outcomes Research: The recently renamed Agency for Healthcare Research and Quality (formerly the Agency for Health Care Policy and Research) is authorized to expand outcomes research necessary for the development of medical practice guidelines and for increased access to consumer information. In order to boost funding for this vital area of research, title VIII of my bill would establish a trust fund for medical treatment outcomes research, capitalized by a .001 cent tax on total U.S. health insurance premiums collected. This trust fund would be specifically authorized for use by the Agency for Healthcare Research and Quality to supplement its currently authorized outcomes research mission.

Reducing Medical Errors: A recently released Institute of Medicine (IOM) report, ''To Err Is Human: Building a Safer Health System,'' concluded that medical mistakes have led to numerous injuries and deaths, affecting an estimated three to four percent of all hospital patients. The IOM report also concluded that health care is a decade or more behind other high-risk industries in its attention to ensuring basic safety. This provision would make grants available to states so they can establish their own error reporting systems and would establish 15 competitively-awarded research demonstration

projects in rural and urban areas throughout the country. Of the 15 facilities participating in the demonstrations: 5 will be required to inform HHS of any medical errors, 5 will not be required to inform HHS of medical errors, and 5 will be required to inform HHS as well as the patient and/or his family of any medical errors.

The Secretary of HHS would be required to report to the Congress on the results of the demonstration projects, focusing on best practices and costs/benefits of applying these practices nationwide. These projects would employ new and proven technologies and enhance staff training to determine ways to reduce errors. The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by Federal health plans.

Title IX: Tax Incentives for Purchase of Qualified Long-Term Care Insurance

Increases access to long-term care by: (1) establishing a tax credit for amounts paid toward long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) setting standards that require long-term care to eliminate the current bias that favors institutional care over community and home-based alternatives.

Title X: National Fund for Health Research

Authorizes the establishment of a National Fund for Health Research to supplement biomedical research through the contributions of 1% of premiums collected by health insurers. Funds will be distributed to the National Institutes of Health's member institutes and centers in the same proportion as the amount of appropriations they receive for the fiscal year.

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31 HEALTH CARE BILLS INTRODUCED BY SENATOR ARLEN SPECTER

98TH CONGRESS 1/3/83 THROUGH 1/2/85

(1) S. 811: The Health Care for Displaced Workers Act of 1983 (3/15/83)

(2) S. 2051: The Health Care Cost Containment Act of 1983 (11/4/83)

99TH CONGRESS 1/3/85 THROUGH 1/2/87

(3) S. 379: The Health Care Cost Containment Act of 1985 (2/5/85)

(4) S. 1873: The Community Based Disease Prevention and Health Promotion Projects Act of 1985 (11/21/85)

100TH CONGRESS 1/3/87 THROUGH 1/2/89

(5) S. 281: The Aid to Families and Employment Transition Act (1/6/87)

(6) S. 1871: The Pediatric Acquired Immunodeficiency Syndrome (AIDS) Resource Centers Act (11/17/87)

(7) S. 1872: The Minority Acquired Immunodeficiency Syndrome (AIDS) Awareness and Prevention Projects Act (11/17/87)

101ST CONGRESS 1/3/89 THROUGH 1/2/91

(8) S. 896: The Pediatric AIDS Resource Centers Act (5/2/89)

(9) S. 1607: Authorization of the Office of Minority Health (9/12/89)

102ND CONGRESS 1/3/91 THROUGH 1/5/93

(10) S. 1122: The Long-Term Care Incentives Act of 1991 (5/22/91)

(11) S. 1214: The Change in Designation of Lancaster County, PA, for Purposes of Medicare Services (6/4/91)

(12) S. 1864: The Children's Hospital of Philadelphia Medical Research Facility Act (10/23/91)

(13) S. 1995: The Health Care Access and Affordability Act of 1991 (11/20/91)

(14) S. 2028: The Women Veteran's Health Equity Act of 1991 (11/22/91)

(15) S. 2029: Self-Funding of Veteran's Administrative Health Care Act (11/22/91)

(16) S. 2188: Rural Veterans Health Care Facilities Act (2/5/92)

(17) S. 3176: The Health Care Affordability and Quality Improvement Act of 1992 (8/12/92)

(18) S. 3353: The Deferred Acquisition Cost Act (10/6/92)

103RD CONGRESS 1/5/93 THROUGH 12/11/94

(19) S. 18: The Comprehensive Health Care Act of 1993 (1/21/93)

(20) S. 631: The Comprehensive Access and Affordability Health Care (3/23/93)

104TH CONGRESS 1/4/95 THROUGH 10/3/96

(21) S. 18: The Health Care Assurance Act of 1995 (1/4/95)

(22) S. 1716: The Adolescent Family Life and Abstinence Education Act of 1996 (4/29/96)

105TH CONGRESS 1/7/97 THROUGH 10/21/98

(23) S. 24: The Health Care Assurance Act of 1997 (1/21/97)

(24) S. 435: The Healthy Children's Pilot Program Act of 1997 (3/13/97)

(25) S. 934: The Adolescent Family Life and Abstinence Education Act of 1997 (6/18/97)

(26) S. 999: Authorizing the Department of Veteran's Affairs to Specify the Frequency of Screening Mammograms (7/9/97)

106TH CONGRESS 1/19/99 THROUGH 12/15/00

(27) S. 24: The Health Care Assurance Act of 1999 (1/19/99)

(28) S. 836: The Access to Women's Health Care Act of 1999 (4/20/99)

(29) S. 1402: The Veterans Benefits and Health Care Improvement Act of 2000 (7/20/99)

(30) S. 2015: The Stem Cell Research Act of 2000 (1/31/00)

(31) S. 2038: The Medical Error Reduction Act of 2000 (2/8/00)

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, and Mrs. BOXER):

S. 25. A bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes; to the Committee on the Judiciary.

FIREARM LICENSING AND RECORD OF SALE ACT OF 2001

Mrs. FEINSTEIN. Mr. President, last year on Mother's Day, supporters of sensible gun laws came together by the hundreds of thousands to participate in the Million Mom March and say to Congress: ''Enough is Enough.''

Those women, men and children all shared a common purpose: The passage of sensible gun laws—laws that will hopefully help save lives.

The primary stated goal of the Million Mom March was to push for legislation to license gun owners and keep track of guns. We know it will be a long process of educating the Congress and the public on this issue. But we will not give in until we succeed. So today I rise, along with Senators SCHUMER and BOXER, to reintroduce the ''Firearm Licensing and Record of Sale Act,'' which I believe represents a common-sense approach to guns and gun violence in America.

Mr. President, in this country, when you want to hunt, you get a hunting license; when you want to fish, you get a fishing license. But when you want to buy a gun, no license is necessary. That makes no sense.

We register cars and license drivers. We register pesticides and license exterminators. We register animal carriers and researchers, we register gambling devices. And we register a whole host of other goods and activities—even ''international expositions'' must be registered with the Bureau of International Expositions!

But when it comes to guns and gun owners—no license and no registration, despite the loss of more than 32,000 lives a year from gun violence.

To this end, my staff and I worked for months with law enforcement officials and other experts in drafting the bill we introduced last year. And since that time, we have refined the bill, corrected some vague sections, and made it even more clear what the bill would do, and what it would not do.

Upon enactment of this legislation, anyone purchasing a handgun or semi-automatic weapon that takes detachable ammunition magazines will be required to have a license. Shotguns and a large number of common hunting guns are not covered by the requirements of this bill.

Current owners of these weapons will have up to 10 years to obtain a license, on a rolling basis, much like many states now handle drivers licenses.

The bill sets up a federal system, but allows states to opt out if they adopt a system at least as effective as the federal program.

Under this bill, anyone wishing to obtain a firearm license will need to go to a federally licensed firearms dealer. There are currently more than 100,000 such dealers across the country—to put that in some perspective, there are four times more gun dealers in America than there are McDonald's restaurants in the entire world. Operating the federal licensing system through these licensed dealers will minimize the burden on those wishing to obtain a license.

If a state opts-out of the federal program, an individual will go to a State-designated entity, like a local sheriff, local police department, or even Department of Motor Vehicles. It will all depend on where the state feels is best.

Either way, the purchaser will then need to:

Provide information as to date and place of birth and name and address;

Submit a thumb print;

Submit a current photograph;

Sign, under penalty of perjury, that all of the submitted information is true and that the applicant is qualified under Federal law to possess a firearm;

Pass a written firearms safety test, requiring knowledge of the safe storage and handling of firearms, the legal responsibilities of firearm ownership, and other factors as determined by the state or federal authority;

Sign a pledge to keep any firearm safely stored and out of the hands of juveniles (this pledge will be backed up by criminal penalties of up to three years in jail for anyone failing to do so);

Undergo state and federal background checks.

Licenses will be renewable every five years, and can be revoked at any time if the licensee becomes disqualified under federal law from owning or possessing a gun.

And Mr. President, the fee for a license cannot exceed $25.

Once the bill takes effect, all future sales and transfers of firearms falling within the scope of the bill will have to be recorded through a federally licensed firearms dealer, with an accompanying NICS background check. That way, law enforcement agencies will have easier access to information leading to the arrest of persons who use guns in crime.

The bill covers both handguns and other guns that are semi-automatic and can accept detachable magazines.

The legislation covers handguns because statistically, these guns are used in more crimes than any other. In fact, approximately 85 percent of all firearm homicides involve a handgun.

And the legislation also covers semiautomatic firearms that can accept detachable magazines, because these are the kind of assault weapons that have the potential to destroy the largest number of lives in the shortest period of time.

A gun that can take a detachable magazine can also take a large capacity magazine. Combine that with semiautomatic, rapid fire, and you have a deadly combination—as we have seen time and again in recent years.

Put simply, this legislation will cover those firearms that represent the greatest threat to the safety of innocent men, women and children in this nation.

Common hunting rifles, shotguns and other firearms that cannot accept detachable magazines will remain exempt.

Penalties will vary depending on the severity of the violation. But in no case will gun owners face jail time simply because they forgot to get a license:

Those who fail to get a license will face fines of between $500 (for a first offense) and $5,000 for subsequent offenses.

Failing to report a change of address or the loss of a firearm will also result in penalties between $500 and $5,000, because this system works best for law enforcement when the perpetrators of gun crime can be quickly traced and arrested;

Dealers who fail to maintain adequate records will face up to 2 years in prison—dealers know their responsibilities, and this will give law enforcement the tools necessary to root out bad dealers and prevent the straw purchases and other violations of law that allow criminals easy access to a continuing flow of guns;

And adults who recklessly or knowingly allow a child access to a firearm face up to three years in prison if the child uses the gun to kill or seriously injure another person. In this way, the bill truly puts a new sense of responsibility onto gun owners in America.

Mr. President, law enforcement in California tells me that a licensing and record of sale system like the one I am introducing today will help law enforcement, upon recovery of a firearm used in crime, to track the gun down to the person who sold it, and then to the person who bought it.

And this legislation also sets in place a method through which we can better attempt to ensure that gun owners are responsible and trained in the use and care of their dangerous possessions.

We have tried to minimize the burden of this bill at every turn:

The licensing process will take place through federally licensed firearms dealers—as I mentioned earlier, there are currently more than 100,000 in this country;

The fee for a license will be only $25;

Current gun owners will have as many as ten years to get a license, on a rolling basis, and guns now in homes will not have to be registered;

Future gun transfers will simply be recorded by licensed dealers—as they are now—and a system will be put in place to allow the quick tracing of guns used in crime. Gun owners themselves will not have to register their old guns or send any paperwork to the government.

This nation is awash in guns—there are more than 200 million of them in the United States. The problem of gun violence is not going away, and accidental deaths from firearms rob us of countless innocents each year.

Too many lives are lost every year simply because gun owners do not know how to use or store their firearms—particularly around children. In fact, according to a study released in 1999, in 1996 alone there were more than 1,100 unintentional shooting deaths and more than 18,000 firearm suicides—many of which might have been prevented if the person intent on suicide did not have easy access to a gun owned by somebody else. It is my hope that the provisions of this bill, particularly with regard to child access prevention, will begin the process of making it harder for children and others to gain easy access to firearms.

As I said, I know that this bill will not pass overnight. We have a long process of education ahead of us. But the American people are with us. The facts are with us. And common sense is with us.

I thank the Senate for its consideration of this measure, and I look forward to working with each of my colleagues to move this bill forward in the coming months.

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

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

S. 25

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 ''Firearm Licensing and Record of Sale Act of 2001''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the manufacture, distribution, and importation of firearms is inherently commercial in nature;

(2) firearms regularly move in interstate commerce;

(3) firearms trafficking is so prevalent and widespread in and among the States that it is usually impossible to distinguish between intrastate trafficking and interstate trafficking;

(4) to the extent that firearms trafficking is intrastate in nature, it arises out of and is substantially connected with a commercial transaction, which, when viewed in the aggregate, substantially affects interstate commerce;

(5) because the intrastate and interstate trafficking of firearms are so commingled, full regulation of interstate commerce requires the incidental regulation of intrastate commerce; and

(6) it is in the national interest and within the role of the Federal Government to ensure that the regulation of firearms is uniform among the States, that law enforcement can quickly and effectively trace firearms used in crime, and that firearms owners know how to use and safely store their firearms.

(b) PURPOSES.—The purposes of this Act and the amendments made by this Act are—

(1) to protect the public against the unreasonable risk of injury and death associated with the unrecorded sale or transfer of qualifying firearms to criminals and youth;

(2) to ensure that owners of qualifying firearms are knowledgeable in the safe use, handling, and storage of those firearms;

(3) to restrict the availability of qualifying firearms to criminals, youth, and other persons prohibited by Federal law from receiving firearms; and

(4) to facilitate the tracing of qualifying firearms used in crime by Federal and State law enforcement agencies.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) FIREARM; LICENSED DEALER; LICENSED MANUFACTURER.—The terms ''firearm'', ''licensed dealer'', and ''licensed manufacturer'' have the meanings given those terms in section 921(a) of title 18, United States Code.

(2) QUALIFYING FIREARM.—The term ''qualifying firearm'' has the meaning given the term in section 921(a) of title 18, United States Code, as amended by subsection (b) of this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(4) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

(b) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) The term 'qualifying firearm'—

''(A) means—

''(i) any handgun ; or

''(ii) any semiautomatic firearm that can accept any detachable ammunition feeding device; and

''(B) does not include any antique.''.

TITLE I—LICENSING

SEC. 101. LICENSING REQUIREMENT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) FIREARM LICENSING REQUIREMENT.—

''(1) IN GENERAL.—It shall be unlawful for any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to possess a qualifying firearm on or after the applicable date, unless that person has been issued a firearm license—

''(A) under title I of the Firearm Licensing and Record of Sale Act of 2001, which license has not been invalidated or revoked under that title; or

''(B) pursuant to a State firearm licensing and record of sale system certified under section 602 of the Firearm Licensing and Record of Sale Act of 2001, which license has not been invalidated or revoked under State law.

''(2) APPLICABLE DATE.—In this subsection, the term 'applicable date' means—

''(A) with respect to a qualifying firearm that is acquired by the person before the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 10 years after such date of enactment; and

''(B) with respect to a qualifying firearm that is acquired by the person on or after the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 1 year after such date of enactment.''.

SEC. 102. APPLICATION REQUIREMENTS.

(a) IN GENERAL.—In order to be issued a firearm license under this title, an individual shall submit to the Secretary (in accordance with the regulations promulgated under subsection (b)) an application, which shall include—

(1) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;

(2) the name, address, and date and place of birth of the applicant;

(3) any other name that the applicant has ever used or by which the applicant has ever been known;

(4) a clear thumb print of the applicant, which shall be made when, and in the presence of the entity to whom, the application is submitted;

(5) with respect to each category of person prohibited by Federal law, or by the law of the State of residence of the applicant, from obtaining a firearm, a statement that the individual is not a person prohibited from obtaining a firearm;

(6) a certification by the applicant that the applicant will keep any firearm owned by the applicant safely stored and out of the possession of persons who have not attained 18 years of age;

(7) a certificate attesting to the completion at the time of application of a written firearms examination, which shall test the knowledge and ability of the applicant regarding—

(A) the safe storage of firearms, particularly in the vicinity of persons who have not attained 18 years of age;

(B) the safe handling of firearms;

(C) the use of firearms in the home and the risks associated with such use;

(D) the legal responsibilities of firearms owners, including Federal, State, and local laws relating to requirements for the possession and storage of firearms, and relating to reporting requirements with respect to firearms; and

(E) any other subjects, as the Secretary determines to be appropriate;

(8) the date on which the application was submitted; and

(9) the signature of the applicant.

(b) REGULATIONS GOVERNING SUBMISSION.—The Secretary shall promulgate regulations specifying procedures for the submission of applications to the Secretary under this section, which regulations shall—

(1) provide for submission of the application through a licensed dealer or an office or agency of the Federal Government designated by the Secretary;

(2) require the applicant to provide a valid identification document (as defined in section 1028(d)(2) of title 18, United States Code) of the applicant, containing a photograph of the applicant, to the licensed dealer or to the office or agency of the Federal Government, as applicable, at the time of submission of the application to that dealer, office, or agency; and

(3) require that a completed application be forwarded to the Secretary not later than 48 hours after the application is submitted to the licensed dealer or office or agency of the Federal Government, as applicable.

(c) FEES.—

(1) IN GENERAL.—The Secretary shall charge and collect from each applicant for a license under this title a fee in an amount determined in accordance with paragraph (2).

(2) FEE AMOUNT.—The amount of the fee collected under this subsection shall be not less than the amount determined by the Secretary to be necessary to ensure that the total amount of all fees collected under this subsection during a fiscal year is sufficient to cover the costs of carrying out this title during that fiscal year, except that such amount shall not exceed $25.

SEC. 103. ISSUANCE OF LICENSE.

(a) IN GENERAL.—The Secretary shall issue a firearm license to an applicant who has submitted an application that meets the requirements of section 102, if the Secretary ascertains that the individual is not prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm.

(b) EFFECT OF ISSUANCE TO PROHIBITED PERSON.—A firearm license issued under this section shall be null and void if issued to a person who is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm.

(c) FORM OF LICENSE.—A firearm license issued under this section shall be in the form of a tamper-resistant card, and shall include—

(1) the photograph of the licensed individual submitted with the application;

(2) the address of the licensed individual;

(3) the date of birth of the licensed individual;

(4) a license number, unique to each licensed individual;

(5) the expiration date of the license, which shall be the date that is 5 years after the initial anniversary of the date of birth of the licensed individual following the date on which the license is issued (or in the case of a license renewal, following the date on which the license is renewed under section 104);

(6) the signature of the licensed individual provided on the application, or a facsimile of the application; and

(7) centered at the top of the license, capitalized, and in bold-face type, the following statement:

''FIREARM LICENSE—NOT VALID FOR ANY OTHER PURPOSE''.

SEC. 104. RENEWAL OF LICENSE.

(a) APPLICATION FOR RENEWAL.—

(1) IN GENERAL.—In order to renew a firearm license issued under this title, not later than 30 days before the expiration date of the license, the licensed individual shall submit to the Secretary (in accordance with the regulations promulgated under paragraph (3)), in a form approved by the Secretary, an application for renewal of the license.

(2) CONTENTS.—An application submitted under paragraph (1) shall include—

(A) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;

(B) current proof of identity of the licensed individual; and

(C) the address of the licensed individual.

(3) REGULATIONS GOVERNING SUBMISSION.—The Secretary shall promulgate regulations specifying procedures for the submission of applications under this subsection.

(b) ISSUANCE OF RENEWED LICENSE.—Upon approval of an application submitted under subsection (a), the Secretary shall issue a renewed license, which shall meet the requirements of section 103(c), except that the license shall include the current photograph and address of the licensed individual, as provided in the application submitted under this section, and the expiration date of the renewed license, as provided in section 103(c)(5).

SEC. 105. REVOCATION OF LICENSE.

(a) IN GENERAL.—If an individual to whom a license has been issued under this title subsequently becomes a person who is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm—

(1) the license is revoked; and

(2) the individual shall promptly return the license to the Secretary.

(b) ADMINISTRATIVE ACTION.—Upon receipt by the Secretary of notice that an individual to whom a license has been issued under this title has become a person described in subsection (a), the Secretary shall ensure that the individual promptly returns the license to the Secretary.

TITLE II—RECORD OF SALE OR TRANSFER

SEC. 201. SALE OR TRANSFER REQUIREMENTS FOR QUALIFYING FIREARMS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (z)

(as added by section 101 of this Act) the following:

''(aa) UNAUTHORIZED SALE OR TRANSFER OF A QUALIFYING FIREARM.—It shall be unlawful for any person to sell, deliver, or otherwise transfer a qualifying firearm to, or for, any person who is not a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, or to receive a qualifying firearm from a person who is not a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, unless, at the time and place of the transfer or receipt—

''(1) the transferee presents to a licensed dealer a valid firearm license issued to the transferee—

''(A) under title I of the Firearm Licensing and Record of Sale Act of 2001; or

''(B) pursuant to a State firearm licensing and record of sale system certified under section 602 of the Firearm Licensing and Record of Sale Act of 2001 established by the State in which the transfer or receipt occurs;

''(2) the licensed dealer contacts the Secretary or the head of the State agency that administers the certified system described in paragraph (1)(B), as applicable, and receives notice that the transferee has been issued a firearm license described in paragraph (1) and that the license remains valid; and

''(3) the licensed dealer records on a document (which, in the case of a sale, shall be the sales receipt) a tracking authorization number provided by the Secretary or the head of the State agency, as applicable, as evidence that the licensed dealer has verified the validity of the license.''.

SEC. 202. FIREARM RECORDS.

(a) SUBMISSION OF SALE OR TRANSFER REPORTS.—Not later than 14 days after the date on which the transfer of qualifying firearm is processed by a licensed dealer under section 922(aa) of title 18, United States Code (as added by section 201 of this title), the licensed dealer shall submit to the Secretary (or, in the case of a licensed dealer located in a State that has a State firearm licensing and record of sale system certified under section 602, to the head of the State agency that administers that system) a report of that transfer, which shall include information relating to—

(1) the manufacturer of the firearm;

(2) the model name or number of the firearm;

(3) the serial number of the firearm;

(4) the date on which the firearm was received by the transferee;

(5) the number of a valid firearm license issued to the transferee under title I; and

(6) the name and address of the individual who transferred the firearm to the transferee.

(b) FEDERAL RECORD OF SALE SYSTEM.—Not later than 9 months after the date of enactment of this Act, the Secretary shall establish and maintain a Federal record of sale system, which shall include the information included in each report submitted to the Secretary under subsection (a).

(c) ELIMINATION OF PROHIBITION ON ESTABLISHMENT OF SYSTEM OF REGISTRATION.—Section 926(a) of title 18, United States Code, is amended by striking the second sentence.

TITLE III—ADDITIONAL PROHIBITIONS

SEC. 301. UNIVERSAL BACKGROUND CHECK REQUIREMENT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (aa) (as added by section 201 of this Act) the following:

''(bb) UNIVERSAL BACKGROUND CHECK REQUIREMENT.—

''(1) REQUIREMENT.—Except as provided in paragraph (2), it shall be unlawful for any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell, deliver, or otherwise transfer a firearm to any person other than such a licensee, unless the transfer is processed through a licensed dealer in accordance with subsection (t).

''(2) EXCEPTION.—Paragraph (1) shall not apply to the infrequent transfer of a firearm by gift, bequest, intestate succession or other means by an individual to a parent, child, grandparent, or grandchild of the individual, or to any loan of a firearm for any lawful purpose for not more than 30 days between persons who are personally known to each other.''.

SEC. 302. FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (bb) (as added by section 301 of this title) the following:

''(cc) FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.—It shall be unlawful for a licensed manufacturer or a licensed dealer to fail to comply with section 202 of the Handgun Licensing and Record of Sale Act of 2001, or to maintain such records or supply such information as the Secretary may require in order to ascertain compliance with such Act and the regulations and orders issued under such Act.''.

SEC. 303. FAILURE TO REPORT LOSS OR THEFT OF FIREARM.

Section 922 of title 18, United States Code, is amended by inserting after subsection (cc) (as added by section 302 of this title) the following:

''(dd) FAILURE TO REPORT LOSS OR THEFT OF FIREARM.—It shall be unlawful for any person who owns a qualifying firearm to fail to report the loss or theft of the firearm to the Secretary within 72 hours after the loss or theft is discovered.''.

SEC. 304. FAILURE TO PROVIDE NOTICE OF CHANGE OF ADDRESS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (dd) (as added by section 303 of this title) the following:

''(ee) FAILURE TO PROVIDE NOTICE OF CHANGE OF ADDRESS.—It shall be unlawful for any individual to whom a firearm license has been issued under title I of the Firearm Licensing and Record of Sale Act of 2001 to fail to report to the Secretary a change in the address of that individual within 60 days of that change of address.''.

SEC. 305. CHILD ACCESS PREVENTION.

Section 922 of title 18, United States Code, is amended by inserting after subsection (ee) (as added by section 304 of this title) the following:

''(ff) CHILD ACCESS PREVENTION.—

''(1) DEFINITION OF CHILD.—In this subsection, the term 'child' means an individual who has not attained the age of 18 years.

''(2) PROHIBITION AND PENALTIES.—Except as provided in paragraph (3), it shall be unlawful for any person to keep a loaded firearm, or an unloaded firearm and ammunition for the firearm, any 1 of which has been shipped or transported in interstate or foreign commerce, within any premises that is under the custody or control of that person, if—

''(A) that person—

''(i) knows, or recklessly disregards the risk, that a child is capable of gaining access to the firearm; and

''(ii) either—

''(I) knows, or recklessly disregards the risk, that a child will use the firearm to cause the death of, or serious bodily injury (as defined in section 1365 of this title) to, the child or any other person; or

''(II) knows, or reasonably should know, that possession of the firearm by a child is unlawful under Federal or State law; and

''(B) a child uses the firearm and the use of that firearm causes the death of, or serious bodily injury to, the child or any other person.

''(3) EXCEPTIONS.—Paragraph (2) does not apply if—

''(A) at the time the child obtained access, the firearm was secured with a secure gun storage or safety device;

''(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the child obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

''(C) the child uses the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

''(D) the person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises on which the firearm is kept.''.

TITLE IV—ENFORCEMENT

SEC. 401. CRIMINAL PENALTIES.

(a) FAILURE TO POSSESS FIREARM LICENSE; FAILURE TO COMPLY WITH QUALIFYING FIREARM SALE OR TRANSFER REQUIREMENTS; FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever knowingly violates subsection (z), (aa), or (cc) of section 922 shall be fined under this title, imprisoned not more than 2 years, or both.''.

(b) FAILURE TO COMPLY WITH UNIVERSAL BACKGROUND CHECKS; FAILURE TO TIMELY REPORT LOSS OR THEFT OF A QUALIFYING FIREARM; FAILURE TO PROVIDE NOTICE OF CHANGE OF ADDRESS.—Section 924(a)(5) of title 18, United States Code, is amended by striking ''(s) or (t)'' and inserting ''(s), (t), (bb), (dd), or (ee)''.

(c) CHILD ACCESS PREVENTION.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(8) Whoever violates section 105(a)(2) of the Handgun Licensing and Record of Sale Act of 2001, knowingly or having reason to believe that the person is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm, shall be fined under this title, imprisoned not more than 2 years, or both.

''(9) Whoever violates section 922(ff) shall be fined under this title, imprisoned not more than 3 years, or both.''.

SEC. 402. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue regulations governing the licensing of possessors of qualifying firearms and the recorded sale of qualifying firearms, consistent with this Act and the amendments made by this Act, as the Secretary determines to be reasonably necessary to reduce or prevent deaths or injuries resulting from qualifying firearms, and to assist law enforcement in the apprehension of owners or users of qualifying firearms used in criminal activity.

(b) MAXIMUM INTERVAL BETWEEN ISSUANCE OF PROPOSED AND FINAL REGULATION.—Not later than 120 days after the date on which the Secretary issues a proposed regulation under subsection (a) with respect to a matter, the Secretary shall issue a final regulation with respect to the matter.

SEC. 403. INSPECTIONS.

In order to ascertain compliance with this Act, the amendments made by this Act, and the regulations and orders issued under this Act, the Secretary may, during regular business hours, enter any place in which firearms or firearm products are manufactured, stored, or held, for distribution in commerce, and inspect those areas where the products are so manufactured, stored, or held.

SEC. 404. ORDERS.

The Secretary may issue an order prohibiting the sale or transfer of any firearm that the Secretary finds has been transferred or distributed in violation of this Act, an amendment made by this Act, or a regulation issued under this Act.

SEC. 405. INJUNCTIVE ENFORCEMENT.

Upon the request of the Secretary, the Attorney General may bring an action to restrain any violation of this Act or an amendment made by this Act in the district court of the United States for any district in which the violation has occurred, or in which the defendant is found or transacts business.

TITLE V—FIREARM INJURY INFORMATION AND RESEARCH

SEC. 501. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) establish and maintain a firearm injury information clearinghouse to collect, investigate, analyze, and disseminate data and information relating to the causes and prevention of death and injury associated with firearms;

(2) conduct continuing studies and investigations of firearm-related deaths and injuries; and

(3) collect and maintain current production and sales figures for each licensed manufacturer.

(b) AVAILABILITY OF INFORMATION.—Periodically, but not less frequently than annually, the Secretary shall make available to the public a report on the activities of the Secretary under subsection (a).

TITLE VI—EFFECT ON STATE LAW

SEC. 601. EFFECT ON STATE LAW.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to preempt any provision of the law of any State or political subdivision of that State, or prevent a State or political subdivision of that State from enacting any provision of law regulating or prohibiting conduct with respect to firearms, except to the extent that the provision of law is inconsistent with any provision of this Act or an amendment made by this Act, and then only to the extent of the inconsistency.

(b) RULE OF INTERPRETATION.—A provision of State law is not inconsistent with this Act or an amendment made by this Act if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than a corresponding prohibition or penalty imposed by this Act or an amendment made by this Act.

SEC. 602. CERTIFICATION OF STATE FIREARM LICENSING SYSTEMS AND STATE FIREARM RECORD OF SALE SYSTEMS.

Upon a written request of the chief executive officer of a State, the Secretary may certify—

(1) a firearm licensing system established by a State, if State law requires the system to satisfy the requirements applicable to the Federal firearm licensing system established under title I; or

(2) a firearm record of sale system established by a State, if State law requires the head of the State agency that administers the system to submit to the Federal firearm record of sale system established under section 202(b) a copy of each report submitted to the head of the agency under section 202(a), within 7 days after receipt of the report.

TITLE VII—RELATIONSHIP TO OTHER LAW

SEC. 701. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

In the event of any conflict between any provision of this Act or an amendment made by this Act, and any provision of the Arms Export Control Act (22 U.S.C. 2751), the provision of the Arms Export Control Act shall control.

TITLE VIII—INAPPLICABILITY

SEC. 801. INAPPLICABILITY TO GOVERNMENTAL AUTHORITIES.

This Act and the amendments made by this Act do not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE OF AMENDMENTS.

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 26. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Natural Resources.

AMENDING THE DEPARTMENT OF ENERGY AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce this bill today to address problems with the California energy market and the unwillingness of the Federal Energy Regulatory Commission to take the necessary action.

Last week, the lights went off in California and the governor declared a state of emergency. More than 1 million businesses and homeowners throughout the state lost power. Computers shut off, ATMs stopped dispensing cash, traffic lights went dark and heaters went cold, jeopardizing public safety, the economy, and people's lives.

The situation continues to worsen, and the prognosis for the future is dire. Unfortunately, the problem is not just limited to California. PG&E and Southern California Edison, our two largest blue chip utilities are on the brink of bankruptcy and have lost billions. The state's economy has also lost billions from work stoppages that seem to occur every single workday.

As goes California so goes the rest of the country, I believe. California is the 6th largest economy in the world. Already financial institutions and banks that have underwritten the debts of our utilities are being saddled with their own problems due to the uncertainty over whether they will be paid.

Those who believe that California deserves its present plight because of the state's deregulation bill are near-sighted. California passed a very flawed deregulation bill in 1996. It was flawed because it relied almost entirely on a free market and assumed that there will always be adequate energy supply. What has resulted is an uncompetitive market and an absence of adequate supply.

I believe California shares a major responsibility here and I am encouraged that the state legislature is beginning to take action. However, the federal government also has a major responsibility because the Federal Energy Regulatory Commission under the Federal Power Act holds the only authority over energy generators and marketers. The state cannot address this.

Unfortunately, the FERC, even after concluding that rates in California are ''unjust and unreasonable,'' has failed to take the necessary action to solve the crisis. I am thus proposing legislation today to empower the Secretary of Energy to take the same action available to the FERC in instances when FERC has failed to take decisive action. Individual states would be able to opt out of any order from the Secretary as this bill is aimed at helping those states that need and want help.

I urge the Senate to take up and pass this bill as soon as possible.

By Mr. McCAIN (for himself, Mr. FEINGOLD, Mr. COCHRAN, Mr. LEVIN, Mr. THOMPSON, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. WELLSTONE, Mr. JEFFORDS, Mr. REED, Mr. DURBIN, Mr. WYDEN, Mr. KOHL, Mrs. BOXER, Mr. HARKIN, Ms. STABENOW, and Ms. CANTWELL):

S. 27. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

CAMPAIGN REFORM LEGISLATION

Mr. McCAIN. Mr. President, today we confront yet again a very serious challenge to our political system, as dangerous in its debasing effect on our democracy as war and depression have been in the past. And it will take the best efforts of every public-spirited American to defeat it. We must overcome the cynicism that is growing rampant in our society. We must pass campaign reform legislation.

That is why first I want to thank our cosponsors for being here today. They are proof that momentum is on our side and that we will pass campaign reform legislation and finally follow the American people's will. Action on this issue is long overdue and I am hopeful that this year will present us with our best opportunity yet to achieve passage of meaningful campaign reform.

Our legislation is simple, bi-partisan, and achieves three primary objectives that will go far to reform our electoral system.

The bill: Bans soft money for usage in federal elections; Requires increased disclosure of electioneering communications by so-called independent organizations in a constitutional and clear manner (the Snowe-Jeffords language); and Codifies the Supreme Court's *Beck* decision, a court decision effectively ignored by the previous Clinton Administration and now, under this Act, a decision which would be strictly enforced.

After one of the closest elections in our nation's history, there's one thing the American people are unanimous about—they want their government back. We can to that by ridding politics of large, unregulated contributions

that give special interests a seat at the table while average Americans are stuck in the back of the room. The Senate needs to act early on campaign finance reform so we can achieve meaningful reform and restore the public's faith in their government.

This is not a perfect bill. It does not attempt to solve all the evils that plague our campaign system. But we will not let perfect be the enemy of progress. We expect amendments to be offered to this legislation and we fully expect that many of those amendments will be constructive and add to our efforts. We look forward to that kind of positive debate.

Second, whatever bill passes, it must treat our corporate and union constituencies alike. We must resist any measures that skew this bill in favor of any one group. The soft money ban in this bill affects both corporations and unions.

And for my Republican friends, I want to emphasize again, if this bill passes, the $100,000-plus union soft money checks to the Democratic Party will no longer exist. According to the Washington Post, the ''biggest donor of soft money in the (last) campaign was the American Federal of State, County, and Municipal Employees (which) gave the Democratic National Committee $1.27 million in last October and early November. AFSCME's soft money total for the election cycle was $6.3 million.'' Passage of this bill will end this practice once and for all.

The key to our success now lies with a fair and open debate on this subject. In the past, we have been denied any constructive debate on this matter. I am hopeful that Senators LOTT and DASCHLE and the co-sponsors of the bill can construct a fair unanimous consent agreement that will allow the Senate to take up and consider numerous amendments, work its will, and craft legislation that can and will be signed into law by the President. That is now our singular goal. And I am confident it can be achieved.

Mr. President, I hope we can soon take up and pass this crucial legislation.

Mr. FEINGOLD. Mr. President, I am very pleased to once again introduce a campaign reform bill with my friend and colleague, the Senator from Arizona. This year we have an important new cosponsor, the senior Senator from Mississippi, Senator THAD COCHRAN, so this bill will be known as the McCain-Feingold-Cochran campaign reform bill.

This is the fourth Congress in which Senator MCCAIN and I have introduced a bill. We have made progress each year, and now we are closer than ever to finishing the job for the American people. The time for campaign finance reform to pass the Congress and become law has now come Mr. President. And Senator MCCAIN and I are going to dedicate ourselves to this issue like never before to make it happen.

The bill we are introducing today is broader than S. 1593, the bill we took to the floor in October 1999, but narrower than S. 26, the McCain-Feingold bill that was introduced in the beginning of the last Congress. Our bill this year consists of a soft money ban, the Snowe-Jeffords language on issue ads, the Beck provision on union dues, and a few other provisions that will provide credibility to this reform bill as it's passed into law. Very significant in my mind is a clear prohibition on political fundraising in federal office buildings. This is a strong base bill for reform, but we are ready and willing to entertain the suggestions and proposals of all 98 other Senators. Each of us in this body is an expert on this issue, and I know that many of my colleagues have innovative ideas on how to improve our election laws. Any amendment that adds to this bill in a positive way and and doesn't undercut its basic principles will be given every consideration.

One provision on which we will not compromise is the ban on soft money. The bill here is as tough and comprehensive as possible, leaving no room for the soft money abuses we have seen in the last decade. Obviously, loopholes will develop over time, but I am satisfied that this bill closes the soft money system down and anticipates at least some of the clever schemes that might be developed to avoid the ban. In the last election cycle, we saw over $500 million in soft money raised by the political parties. This system is a scandal that we must eliminate now.

The bill includes the Snowe-Jeffords language on issue ads. This provision will have a major impact on labor union ads, but it is fair and balanced between unions and corporations. It will have minimal impact on established advocacy groups like National Right to Life and the Sierra Club because they have a significant small donor base, but it will prevent corporations and unions from laundering money through such groups. It allows groups to continue to run these ads as long as they use only individual money and disclose the large donors to the effort. The provision covers only phony issue ads on radio and TV, not direct mail, phone banks, or newspapers, or the Internet, but we are open to working with all sides to work out a fair and balanced way to broaden its coverage if that is what the Senate wants to do.

Similarly, we are open to proposals that will require additional disclosure of election related spending by unions, corporations, and advocacy groups. But they must treat all players in this system evenly and fairly.

That brings me to the issue that has received a lot of attention in recent weeks, so called ''paycheck protection.'' In the past, this has been a poison pill to reform, but with the changes in the Senate, we clearly have the votes to defeat the extreme and one-sided ''paycheck protection proposals that have been offered in the past. We will hold the President and those working with him to the standard that he himself has enunciated any proposal has to be fair and balanced. Our bill is currently fair and balanced. It treats unions and corporations equally. The paycheck protection proposals we have seen in the past are not fair and balanced. They attack only one player in the election system labor unions.

Mr. President, I look forward to a real debate early this year, not only on our bill but on amendments that my colleagues want to offer. I am happy to meet with any Senator who wants to discuss a reform proposal. If we all work together, this process can yield a campaign reform bill that we will be proud of, and we can start out this new Congress by cleaning up our elections and ridding our system of the corrupting of soft money.

Mr. MCCAIN. Mr. President, Senator FEINGOLD and I and others—a bipartisan group of Senators and friends from the House, Congressman SHAYS and Congressman MEEHAN—just had a press conference announcing our intentions. I don't intend to make a statement, except to express my deep and sincere appreciation for my partner, Senator FEINGOLD, who someday will be written about in another book called profiles in courage for his willingness to stand up to the special interests at a time when his own candidacy was at risk if he did not do so.

I thank Senator FEINGOLD, and I look forward to continuing to work together on this issue. I believe we see a light at the end of the tunnel, which is an old phrase from the Vietnam war, uttered by one of our civilian leaders during that war. I remind Senator FEINGOLD that when told of that, a soldier in the field said, ''Yes, the light at the end of the tunnel is a train.'' We hope that is not the case in this particular scenario.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona for his kind remarks. I am happy to be back with him on this effort. As JOHN MCCAIN has said many times, we know that every Member of the Senate is an expert on this issue. Every Member has ideas about how we should reform the campaign finance system. What we want out of this is an opportunity for an open amending process so the Senate as a whole can fashion a bill to send to the President.

Mr. MCCAIN. I ask unanimous consent that the bill be left open for further cosponsors throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin has the floor.

Mr. FEINGOLD. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased to join my friends from Arizona and from Wisconsin in introducing the McCain-Feingold-Cochran bill today. They have worked very hard and very

effectively to bring the attention of not only the Senate but the American people to bear on this issue and this important need for reform. I am convinced that we are well advised to take this legislation up at an early date in this session of the Congress.

The impressions of the last election are fresh on everybody's mind. One that sticks with me very strongly is that candidates were overwhelmed in this process by the expenditures of soft money by groups buying ads, some attacking candidates, supporting others, without the American public knowing who these groups were, what their goals and intentions were, where the money was coming from, or how it was being spent. That has to be corrected, and it ought to be corrected.

The purpose of the campaign finance laws was to let the American people know from where the money was coming, how it was being used, how much money was being raised by the candidates and spent by the candidates. We have now lost the right to know because of the loopholes that have been developed and perfected by those who are involving themselves in the election process.

I am not against freedom of speech. We want everybody to be able to have their say, but we have a right to know how much they are spending and from where the money is coming. I think that is a fundamental part of this legislation, and I hope the Senate will take it up and pass it in the near future.

Ms. COLLINS. Mr. President, I rise in support of the McCain-Feingold bipartisan campaign finance reform bill of 2001. I am very proud to be an original cosponsor of this legislation which goes a long way towards reforming our campaign system.

I have long supported campaign finance reform. When I ran for the Senate from Maine in 1996 I promised my constituents that I would be a strong advocate for campaign finance reform. That pledge led to my decision to cosponsor the campaign finance reform that was introduced in 1997 by Senators MCCAIN and FEINGOLD.

Unfortunately, comprehensive campaign finance reform efforts have been thwarted in the past two Congresses. This time, though, we have reason for optimism due to new and renewed support.

The Bipartisan Campaign Reform Act of 2001 takes a number of important steps towards fixing a broken system. First and foremost, the bill closes the most glaring loophole in our campaign finance laws by banning the unlimited, unregulated contributions known as ''soft money.'' ''Soft money'' has made the current law's restrictions and contributions from individuals, corporations, and unions essentially meaningless. Second, the bill requires disclosure by the sponsors of certain issue ads that corporations and labor unions run in the period leading up to an election. Third, the bill codifies the Supreme Court's decision in *Communication Workers of America v. Beck* to ensure that nonunion members are not obligated to subsidize the political activities of labor unions. And finally, the bill makes it clear that foreign nationals may not contribute any funds—hard or soft—to federal, state, or local elections.

My home State of Maine has a deep commitment to preserving the integrity of the electoral system and ensuring that all Mainers have an equal political voice. Mainers have backed their commitment to an open political process in both word and deed. In many regions of Maine, town meetings in which all citizens are invited to debate issues and make decisions are still prevalent. This is unvarnished, direct democracy. Maine's tradition of town meetings and equal participation rejects the notion that wealth dictates political discourse. Maine citizens feel strongly about reforming our federal campaign laws, as do I.

The problem with soft money was painfully evident during the 1997 hearings by the Senate Committee on Governmental Affairs, chaired by my good friend, Senator THOMPSON. During those investigations, we heard from one individual who gave $325,000 to the Democratic National Committee in order to secure a picture with the President of the United States. We also heard from the infamous Roger Tamraz who testified that the $300,000 he spend to gain access to the White House was not enough and that, next time, he would spend $600,000. And we heard of individuals, such as Chinese cigarette magnate Ted Sioeng, who orchestrated nearly $600,000 in political contributions during the 1996 election cycle. Sioeng, we later discovered, was a self-described agent of the Chinese government.

Soft money donations soared in the 2000 presidential election cycle, nearly doubling from $262 million in 1996 to $488 million in 2000. At the same time, regulated, hard money donations increased a little more than 10-percent. Soft money, then, is the crest of the wave that has swamped our campaign finance system and shaken public confidence in our government. I applaud the bipartisan efforts of Senators MCCAIN and FEINGOLD and pledge my continued support to see this legislation become law this year.

Mr. JEFFORDS. Mr. President, I rise today as a proud cosponsor of the Bipartisan Campaign Reform Act of 2001 to discuss my thoughts and hopes on the actions the Senate will hopefully be taking in the coming months on this important issue.

First, let me thank the sponsors of the legislation, Senators MCCAIN and FEINGOLD, for their tireless perseverance to enact campaign finance reform. Without their hard work and vast knowledge, we would not be at this important point. The time has come to schedule a full and open debate on this important issue. I look forward to hearing and debating the many ideas of my colleagues and believe the Senate should strive to show why we are considered the greatest deliberative body in the world by fully debating this important topic.

Mr. President, I was first elected to Congress following the Watergate scandal, right around the time Congress last enacted comprehensive reform of our campaign finance system. I have watched with growing dismay during my over twenty-five years in Congress as the number of troubling examples of problems in our current campaign finance system have increased. These problems have led to a perception by the public that a disconnect exists between themselves and the people that they have elected. I believe that this perception is a pivotal factor behind the disturbingly low voter turnouts that have plagued national elections.

While some may point to surveys that list campaign finance reform as a low priority for the electorate, I believe that the public actually strongly supports Congress debating and enacting comprehensive reform. It is important to reverse the trend of shrinking voter turnout by re-establishing the connection between the public and us, their elected representatives, by passing comprehensive campaign finance reform.

It is time to restore the public's confidence in our political system.

It is time to increase disclosure requirements and ban soft money.

It is time to work together to pass meaningful campaign finance reform.

As I said earlier, I look forward to a full and open debate on the issue of campaign finance reform including the amendments that will be offered. At the end of this debate, the Senate should be able to pass comprehensive campaign finance reform. That to me is the most important aspect of any bill the Senate may pass, it must be comprehensive. If we fail to address the problems facing our campaign finance system with a comprehensive balanced package we will ultimately fail in our mission of reforming the system. Closing one loophole, without addressing the others in a systematic way, will not do enough to correct the current deficiencies, and may in fact create new and unintended consequences.

Mr. President, we have all seen firsthand the problems with the current state of the law as it relates to sham issue advertisements. I have focused much time and effort on developing a legislative solution on this topic with my colleague Senator OLYMPIA SNOWE, and was pleased that this solution was adopted by the Senate during the 1998 debate on campaign finance reform. I was also proud to cosponsor the comprehensive campaign finance bill Senators MCCAIN and FEINGOLD introduced last Congress that included this legislative solution.

I feel strongly that the legislation the Senate must ultimately vote on include some kind of changes to the current law concerning sham issue advertisements. I feel that we have crafted a

reasonable, constitutional approach to this problem and am extremely pleased that this legislative solution is again included in the bill we introduce today.

That does not mean, though, that we will stop working with our colleagues to craft additional, and perhaps different, ideas to address the problems with the current law on sham issue advertisements. My ultimate goal is to create a comprehensive campaign finance bill that will garner the support of at least 60 Senators, and hopefully more.

Mr. President, I look forward to a full and open debate on this important issue, and pledge to continue working with my colleagues to enact comprehensive campaign finance reform into law this year.

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

S. 28. A bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections; to the Committee on Rules and Administration and the Committee on Rules and Administration, jointly.

MILITARY VOTING RIGHTS ACT OF 2001

Mr. GRAMM. Mr. President, along with Senator KAY BAILEY HUTCHISON, I am introducing legislation today which will ensure that active duty military personnel and their dependents will never lose their right to vote in Federal, State, and local elections. The Military Voting Rights Act of 2001 will guarantee that those men and women who protect our freedom are not denied one of the basic rights upon which that freedom is based.

I initially introduced this legislation in response to an outrageous case in my home state of Texas in which a federal district court, in a suit brought under federal law and supported by federal tax dollars, threw out 800 absentee ballots cast by military personnel in two closely-contested local elections in Val Verde County. While a state court ultimately restored the military votes, the case clearly demonstrated that military personnel who are away from their legal residence on official orders are at risk of losing their right to vote. In fact, based upon current statistics compiled by the Congressional Research Service and the Department of Defense, over 40 percent of our troops on active duty are residents of states that have no specific legislative provisions protecting their fundamental right to vote in state and local elections.

As the Val Verde County case demonstrates, absent specific legislative protection, valid absentee votes cast by military personnel will be ripe targets for attack by those seeking to overturn the results of close elections. I find it unconscionable that American military personnel, who stand ready to fight and die for our nation, risk losing their right to vote as a consequence of their military service. To protect our military personnel from any such injustice, I again introduce this legislation in the Senate and ask my colleagues to support its immediate passage. Those Americans who volunteer to protect our freedom by serving in our Armed Forces should not be denied the right to vote in any election.

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. 28

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 ''Military Voting Rights Act of 2001''.

SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following:

''SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become resident in or a resident of any other State.

''(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.''.

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting ''(a) ELECTIONS FOR FEDERAL OFFICES.—'' before ''Each State shall—''; and

(2) by adding at the end the following:

''(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

''(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

''(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.''.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out **''FOR FEDERAL OFFICE''**.

By Mr. BOND (for himself, Mr. DURBIN, Mr. BAUCUS, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. KYL, Mr. BURNS, Mr. DORGAN, Mr. HARKIN, Mrs. LINCOLN, Mr. LEAHY, Mr. JOHNSON, Mr. FITZGERALD, Mr. WELLSTONE, and Mr. BINGAMAN):

S. 29. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.

SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001

Mr. BOND. Mr. President, I rise today to discuss a measure that has broad bipartisan support. Today, with my colleague from Illinois, Senator DURBIN, I am introducing legislation addressing what is a top concern of small business owners in this country. That is the availability of health care.

For the past three Congresses, we have worked to level the playing field for America's self-employed by ensuring that they can deduct 100 percent of their health insurance premiums. Large corporations, businesses, and other organizations can deduct 100 percent of what they pay, but small businesses, up until recently, have been severely limited in what they can deduct.

The legislation Senator DURBIN and I are introducing today, the Self-Employed Health Insurance Act of 2001, will end finally one of the most glaring inequities that has existed in our tax law.

I have had the pleasure of serving for over 4 years now as chairman of the Senate Committee on Small Business. Throughout, one of my top priorities has been to ensure full deductibility of health insurance for the self-employed. We have made some progress. Most notably, in the Taxpayer Relief Act of 1997, we broke through the longstanding cap on the deduction to provide 100-percent deductibility. In 1998, we passed legislation to speed up the date that self-employed can fully deduct their health insurance costs to 2003 and increase the deductible amounts in the intervening years.

We realize the problem with budget scoring has postponed the effective date of this measure, but I have talked to too many small business people who tell us they cannot wait until 2003 to get sick or to go to 2003 without having coverage for themselves and their employees. The self-employed still cannot afford, in many instances, health insurance without 100-percent deductibility. They should not have to wait any longer. It is time for us to unite behind this bipartisan issue and get this job done.

Let me give you a fact, Mr. President. With a self-employed able to deduct only 60 percent of their health insurance costs today and only 70 percent next year, it probably will come as no surprise to any of us that almost a quarter, 24.2 percent, of the self-employed business owners in Missouri do not have health insurance. In fact, 4.8 million Americans live in families headed by a self-employed individual and have no health insurance. Those families include more than 1 million children who lack adequate health care insurance coverage.

The bill Senator DURBIN and I are introducing today addresses this situation by making 100-percent deductibility begin this year. Full deductibility will make health insurance affordable to the self-employed and help them get themselves and their families

the kind of health insurance coverage they should have.

This measure also corrects another inequity in the law affecting self-employed who try to provide health insurance for themselves, their families, and their employees. It deals with an issue I raised in the last Congress.

Under the current law, the self-employed lose all the health insurance deduction if they are eligible to participate in another plan, whether or not they actually participate. This provision affects self-employed individuals such as Steve Hagan in my hometown of Mexico, MO. Steve is a financial planner who runs his own small business. Although he has a group medical plan for his employees, Steve cannot deduct the medical cost of covering himself or his family simply because his wife is eligible for health insurance through her employer.

The inequity is clear. Why should he be able to deduct the cost of health insurance for his employees but not for himself and his family? What if the insurance available through his wife's employer does not meet the needs of their family?

Besides being patently unfair, this is also an enormous trap for the unwary. Imagine the small business owner who learns that she can now deduct 60 percent of her health insurance costs this year, and with the extra deduction, she can finally afford a group medical plan for herself and her employees.

Then later in the year, her husband gets a new job that offers health insurance. Suddenly, her self-employed health insurance deduction is gone. Sadly, she is left with two choices. She can bear the entire burden of her family's coverage, or she can terminate the insurance coverage for all her employees, which will likely increase due to coverage of fewer employees under the plan. The Tax Code should not force small business owners into this kind of ''no win'' situation when they try to provide insurance coverage for their employees and themselves.

This bill eliminates this problem by clarifying that the self-employed health insurance deduction is limited only if the self-employed person actually participates in a subsidized health insurance plan offered by a spouse's employer or through a second job. It is simply a matter of fairness. It makes common sense. We ought to take this step right now.

It is a commonsense measure that answers the urgent plea of small businesses for fairness in the Tax Code. It has been on the ''must do'' list of the national small business groups for too long. And when I hosted the National Women's Small Business Summit this past summer, in Kansas City, it was at the top of the list among the recommendations we received.

We have a tremendous opportunity to work together. Let's take this opportunity and finish the job.

I had initially offered a list of 21 original cosponsors. I ask unanimous consent that, in addition to those cosponsors, the following Senators be added: The Senator from Wyoming, Mr. ENZI; the Senator from Indiana, Mr. LUGAR; the Senator from Kansas, Mr. ROBERTS; the Senator from Maine, Ms. COLLINS; the Senator from Pennsylvania, Mr. SPECTER; and the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent the bill and a description of its provisions be printed in the RECORD.

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

S. 29

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 ''Self-Employed Health Insurance Fairness Act of 2001''.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''

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

S. 29—SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001—DESCRIPTION OF PROVISIONS

The bill amends section 162(*l*)(1) of the Internal Revenue Code to increase the deduction for health-insurance costs for self-employed individuals to 100% beginning on January 1, 2001. Currently the self-employed can only deduct 60% of these costs. The deduction is not scheduled to reach 100% until 2003, under the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, which was signed into law in October 1998. The bill is designed to place self-employed individuals on an equal footing with large businesses, which can currently deduct 100% of the health-insurance costs for all of their employees.

The bill also corrects a disparity under current law that bars a self-employed individual from deducting any of his or her health-insurance costs if the individual is eligible to participate in another health-insurance plan. This provision affects self-employed individuals who are eligible for, but do not participate in, a health-insurance plan offered through a second job or through a spouse's employer. That insurance plan may not be adequate for the self-employed business owner, and this provision prevents the self-employed from deducting the costs of insurance policies that do meet the specific needs of their families. In addition, this provision provides a significant disincentive for self-employed business owners to provide group health insurance for their employees. The bill ends this disparity by clarifying that a self-employed person loses the deduction only if he or she actually participates in another health-insurance plan.

Mr. DURBIN. Mr. President, I rise today with my colleague from Missouri, to introduce ''The Self-Employed Health Insurance Fairness Act of 2001'', as our first order of business for the new Congress. We have both been working on this issue for many years now and are hopeful that we can finally get the bill fully enacted this year. In past years, we have each introduced very similar bills and this year we are combining our efforts by introducing this bipartisan bill, which we intend to pursue vigorously throughout this Congress.

This bill would allow the self-employed to take a full tax deduction for their health insurance premiums as of December 31, 2000. Corporations already can take a full deduction for these expenses and this bill would level the playing field by allowing the self-employed to take the same full deduction. This bill would mean that the farmer and the agribusiness would be treated the same.

Under current law, the self-employed may only deduct 60 percent of their health insurance premiums this year. The deductibility will increase to 70 percent in 2002 and 100 percent in 2003. I am committed to seeing the self-employed receive equal treatment sooner rather than later.

The self-employed pay over 30 percent more for their health insurance than those insured by group health plans. This makes it much harder for them to afford health insurance. More than 22 percent of the self-employed were without health insurance in 1999, compared to 17.5 percent of other workers. That means that 4.8 million self-employed Americans went without health insurance in 1999.

In Illinois, 17 percent of the self-employed were without health insurance in 1999, up from 14 percent in 1996. The vast majority of these individuals are members of low-income working families. Fifty-three percent of the self-employed living on less than $20,000 in Illinois are without health insurance. This compares with 34 percent of other Illinois working families with the same low income level. Almost 50 percent of those self-employed individuals who were without health insurance at some

time during 1995, went without health insurance for the entire year. In comparison, 62 percent of government workers saw their lack of coverage end within 4 months or less.

Overall, the self-employed pay more for health insurance and are therefore more likely to be uninsured, and they remain uninsured longer than other workers. This is exacerbated by their unequal treatment by the tax code. Congress should move expeditiously to level the playing field and help more hard-working, self-employed individuals and their families to afford the health insurance that they need and deserve.

Mr. BAUCUS. Mr. President, I rise today, as an original cosponsor of S. 29, the Self-Employed Health Insurance Fairness Act of 2001, to speak about the importance of making health insurance a more affordable option for self-employed Americans. The legislation moves forward—by two years—the effective date for making health insurance fully deductible for self-employed taxpayers. In the early 1990s, I authored bills to ensure that the deduction—then 25 percent—would not expire. We won that battle, and throughout the 1990s I consistently fought for increases in the deductible amount. Finally, in 1997, we enacted legislation to allow full, 100 percent deductibility of health insurance for the self-employed, phased in by 2003.

Mr. President, in these times of surpluses, as we reap the benefits of our fiscal discipline, the self-employed farmers, ranchers, and entrepreneurs in Montana and across the country deserve this important tax relief today. My small business and self-employed constituents constantly tell me that purchasing health insurance is one of the things they would most like to be able to do at their business. It is simply unfair that large businesses are allowed to deduct 100 percent of their employees' health insurance costs, while the self-employed must wait until 2003 for this privilege. In this country, we have a system of health insurance that encourages Americans to purchase health insurance through their employer. Allowing self-employed purchasers of health insurance the same deduction permitted to large employers adheres to those concepts and adds a measure of tax equity.

I thank Senators DURBIN and BOND for so actively pursuing enactment of this legislation. I believe the time is right to allow full deductibility of health insurance for the hard-working self-employed.

By Mr. SARBANES (for himself, Mr. LEAHY, Mr. DODD, Mr. REED, Mr. KERRY, Mr. HARKIN, and Mr. EDWARDS):

S. 30. A bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INFORMATION PRIVACY PROTECTION ACT

Mr. SARBANES.

Mr. President, I rise today to address a very important issue: the protection of every American's personal, sensitive, financial information that is held by their financial institutions.

Few Americans understand that, under Federal law, a financial institution could take information it obtains about a customer through his or her transactions, and sell or transfer that information to an affiliated company without the customer being able to object. And the customer has no right to get access to or correct that information.

The amount of information that could be disclosed is enormous. It includes: savings and checking account balances; certificate of deposit maturity dates and balances; any check an individual writes; any check that is deposited into a customer's account; stock and mutual fund purchases and sales; and life insurance payouts.

In considering this issue, I start with the threshold question: whose information is it? Is it the individual's or the institution's? I believe this information belongs to the individual.

To help alleviate the concerns of American consumers, I am introducing legislation that would give customers the right to choose whether their financial institutions should be allowed to transfer this date for unintended uses. I am pleased that Senators LEAHY, DODD, REED, KERRY, HARKIN and EDWARDS are joining me in cosponsoring the Financial Information Privacy Protection Act of 2001. I want to particularly recognize Senator LEAHY, chairman of the Democratic Privacy Caucus, for his strong leadership on the privacy issue over the years.

This bill seeks to protect a fundamental right of privacy for every American who entrusts his or her highly sensitive and confidential financial information to a financial institution. Every American should at least have the opportunity to say ''no'' if he or she does not want that nonpublic information disclosed. Every American should have the right to have especially sensitive information held by his or her financial institution kept confidential unless consent is given. Every American should be allowed to make certain that the information is accurate and, if it is not, have it corrected. And, put quite simply, these rights should be enforced.

The Financial Information Privacy Protection Act of 2001 would accomplish these objectives.

Today's technology makes it easier, faster, and less costly than ever for institutions to have immediate access to large amounts of customer information; to analyze that data; and to send that data to others. With the passage of financial services modernization legislation in 1999, banks, securities firms and insurance firms are now allowed to affiliate and offer their multiple products to each other's customers. As a result, many financial institutions are warehousing large amounts of sensitive information and sharing it throughout the affiliate structure without the customer being fully informed of what financial information is being disclosed or the purposes for which it will be used. While cross-marketing can bring new and beneficial products to receptive consumers, it can also result in unwanted invasions of personal privacy.

Surveys have consistently shown that the public is widely concerned about its privacy. For example, a recent AARP survey found that 96% of respondents were unwilling to let a company freely share their financial information with other financial companies. The survey also asked, ''[w]ho owns financial information provided in a business transaction?'' and 93% of respondents answered that the information belongs to the ''customer'' while only 4% answered that it belongs to the ''business'' (and 3% said they did not know).

Congress has already protected citizens' privacy on prior occasions. In response to public concerns, Congress passed privacy laws restricting companies' disclosure of customer information without customer consent, such as in the Cable Communications Policy Act and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans cannot object to disclosure of their financial transactions to their financial institutions' affiliates and certain other financial companies for purposes inconsistent with those for which they gave their data.

Other important privacy concerns, such as the privacy of bankruptcy court records, fall outside of this bill. Last week, the Clinton administration published a study ''Financial Privacy in Bankruptcy'' with important recommendations that should be carefully considered. I commend the Administration for its many efforts to protect individuals' right to privacy.

Along with medical records, financial records rank among the kinds of personal data Americans most expect will be kept confidential. However, the privacy of even highly sensitive financial information has been increasingly put at risk with the move to an economy in which the selling or sharing of consumers' personal information is highly profitable—and legal.

The Financial Information Privacy Protection Act of 2001 contains key financial privacy protections that are consistent with the expectations of Americans and good business practices.

The Act would provide consumers with:

An ''opt out'' for affiliate sharing, allowing customers to object to financial institutions sharing their financial data with all affiliated firms.

An ''opt in'' for sharing some types of sensitive financial or medical information. A financial institution would need to have a consumer's affirmative consent before releasing his or her medical information or personal spending habits (e.g., credit card charges, check payees) to either an affiliate or an unaffiliated third party.

Rights of access and correction. A consumer would be able to see the information to be released and correct material errors. To preclude abuse of this protection, the bill allows the institution to charge for access to this information.

The Gramm-Leach-Bliley Act, enacted in November 1999, contains some limited Federal financial privacy protections for consumers. While an important beginning, these protections fail to meet the expectations of Americans. It does not contain the important protections that I have just referred to. Many groups have criticized the current law as inadequate. I agree.

This bill would not affect Section 507 of the Gramm-Leach-Bliley Act, which I authored, which provides that these Federal privacy protections do not preempt stronger State privacy laws. States with citizens who want stronger privacy protections than contained in Federal law would still be able to enact such laws.

A number of consumer groups, including Consumers Union, Consumer Federation of America, Consumer Action, Privacy Times, United Auto Workers and U.S. Public Interest Research Group, have stated their support of this bill. Mr. President, I would ask that their letter of endorsement be included at the end of my remarks. Professor Peter Swire, Professor of Law at Ohio State University and formerly the Clinton Administration's Chief Counselor for Privacy, has said: ''The bill is carefully crafted to provide the greatest protections for the most sensitive financial information. At the same time, the bill helps create an efficient financial system by allowing the use of information in situations where the risk to privacy is minimal.''

The issue of financial privacy cuts across philosophical lines.

For example, Mrs. Phyllis Schlafly and the Eagle Forum have spoken out for financial privacy protections even stronger than those contained in this bill. She has written, ''Some banks shamelessly admit they profile their customers so the bank can advise telemarketers which products a customer might like. But why should banks be able to make secret profits off of customers' personal information such as deposits, checks, phone numbers or credit card numbers? Many of us don't want to be solicited by any telemarketers.''

Columnist William Safire has written frequently about the need for stronger privacy protections. For instance, in an editorial in the New York times of October 30, 2000, Mr. Safire pointed out that many people are concerned about financial records, and other records, ''being passed around by conglomerated banks, insurance companies and H.M.O.'s. Personal freedom is diminished when the most intimate secrets can be monitored by employers and merchants.''

As we proceed in an age of technological advances and cross-industry marketing of financial services, we need to be mindful of the privacy concerns of the American public. Consumers who wish to keep their sensitive financial information private should be given a right to do so. The passage of the financial information Privacy Protection Act of 2001 would be a major step toward that goal. Congress can and should provide that privacy protection by giving consumers, at a minimum, the rights of consent and access.

I ask unanimous consent that the bill and a letter be printed in the RECORD.

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

S. 30

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Information Privacy Protection Act of 2001''.

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

SEC. 2. OPT-OUT REQUIREMENT FOR DISCLOSURE TO AFFILIATES AND NONAFFILIATED THIRD PARTIES.

Section 502(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(a)) is amended to read as follows:

''(a) DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION.—Except as otherwise provided in this subtitle, a financial institution may not disclose any nonpublic personal information to an affiliate or a nonaffiliated third party unless the financial institution—

''(1) has provided to the consumer a clear and conspicuous notice, in writing or electronic form or other form permitted by the regulations implementing this subtitle, of the categories of information that may be disclosed to the—

''(A) affiliate; or

''(B) nonaffiliated third party;

''(2) has given the consumer an opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such—

''(A) affiliate; or

''(B) nonaffiliated third party; and

''(3) has given the consumer the ability to exercise the nondisclosure option described in paragraph (2) through the same method of communication by which the consumer received the notice described in paragraph (1) or another method at least as convenient to the consumer, and an explanation of how the consumer can exercise such option.''.

SEC. 3. RESTRICTING THE TRANSFER OF INFORMATION ABOUT PERSONAL SPENDING HABITS.

Section 502(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(b)) is amended to read as follows:

''(b) RESTRICTION ON THE TRANSFER OF INFORMATION ABOUT PERSONAL SPENDING HABITS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), if a financial institution provides a service to a consumer through which the consumer makes or receives payments or transfers by check, debit card, credit card, or other similar instrument, the financial institution shall not transfer to an affiliate or a nonaffiliated third party—

''(A) an individualized list of that consumer's transactions or an individualized description of that consumer's interests, preferences, or other characteristics; or

''(B) any such list or description constructed in response to an inquiry about a specific, named individual;

if the list or description is derived from information collected in the course of providing that service.

''(2) RESTRICTION ON TRANSFER OF AGGREGATE LISTS CONTAINING CERTAIN HEALTH INFORMATION.—Notwithstanding subsection (a), a financial institution shall not transfer to an affiliate or a nonaffiliated third party any aggregate list of consumers containing or derived from individually identifiable health information.

''(3) EXCEPTIONS.—

''(A) IN GENERAL.—The financial institution may disclose the information described in paragraph (1) or (2) to an affiliate or a nonaffiliated third party if such financial institution—

''(i) has clearly and conspicuously requested in writing or in electronic form or other form permitted by the regulations implementing this subtitle, that the consumer affirmatively consent to such disclosure; and

''(ii) has obtained from the consumer such affirmative consent and such consent has not been withdrawn.

''(B) RULE OF CONSTRUCTION.—This subsection shall not be construed as preventing a financial institution from transferring the information described in paragraph (1) or (2) to an affiliate or a nonaffiliated third party for the purposes described in paragraph (1), (2), (3), (5), (7), (8), (9), or (10) of subsection (f).

''(C) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to the transfer of aggregate lists of consumers.''.

SEC. 4. RESTRICTING THE USE OF HEALTH INFORMATION IN MAKING CREDIT AND OTHER FINANCIAL DECISIONS.

(a) RESTRICTION ON USE OF CONSUMER HEALTH INFORMATION.—Section 502(c) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(c)) is amended to read as follows:

''(c) USE OF CONSUMER HEALTH INFORMATION AVAILABLE FROM AFFILIATES AND NONAFFILIATED THIRD PARTIES.—In deciding whether, or on what terms, to offer, provide, or continue to provide a financial product or service to a consumer, a financial institution shall not obtain or receive individually identifiable health information about the consumer from an affiliate or nonaffiliated third

party, or evaluate or otherwise consider any such information, unless the financial institution—

''(1) has clearly and conspicuously requested in writing or in electronic form or other form permitted by the regulations implementing this subtitle, that the consumer affirmatively consent to the transfer and use of that information with respect to a particular financial product or service;

''(2) has obtained from the consumer such affirmative consent and such consent has not been withdrawn; and

''(3) requires the same health information about all consumers as a condition for receiving the financial product or service.''.

(b) EXISTING PROTECTIONS FOR HEALTH INFORMATION NOT AFFECTED.—Subtitle A of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) by redesignating section 510 as section 512; and

(2) by inserting after section 509 the following new section:

''SEC. 510. RELATION TO STANDARDS ESTABLISHED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

''Nothing in this subtitle shall be construed as—

''(1) modifying, limiting, or superseding standards governing the privacy and security of individually identifiable health information promulgated by the Secretary of Health and Human Services under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996; or

''(2) authorizing the use or disclosure of individually identifiable health information in a manner other than as permitted by other applicable law.''.

(c) DEFINITION OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following new paragraph:

''(12) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information obtained from or about an individual, that is described in section 1171(6)(B) of the Social Security Act.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 505(a)(6) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)(6)) is amended by inserting before the period at the end ''to the extent that the provisions of such section are not inconsistent with the provisions of this subtitle''.

SEC. 5. LIMITS ON REDISCLOSURE AND REUSE OF INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) LIMITS ON REDISCLOSURE AND REUSE OF INFORMATION.—

''(1) IN GENERAL.—An affiliate or a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not disclose such information to any other person unless such disclosure would be lawful if made directly to such other person by the financial institution.

''(2) DISCLOSURE UNDER A GENERAL EXCEPTION.—Notwithstanding paragraph (1), any person that receives nonpublic personal information from a financial institution in accordance with one of the general exceptions in subsection (f) may use or disclose such information only—

''(A) as permitted under that general exception; or

''(B) under another general exception in subsection (f), if necessary to carry out the purpose for which the information was disclosed by the financial institution.''.

SEC. 6. CONSUMER RIGHTS TO ACCESS AND CORRECT INFORMATION.

Subtitle A of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended by inserting after section 510 (as added by section 4(b) of this Act), the following new section:

''SEC. 511. ACCESS TO AND CORRECTION OF INFORMATION.

''(a) ACCESS.—

(1) IN GENERAL.—Upon the request of a consumer, a financial institution shall make available to the consumer information about the consumer that is under the control of, and reasonably available to, the financial institution.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), a financial institution—

''(A) shall not be required to disclose to a consumer any confidential commercial information, such as an algorithm used to derive credit scores or other risk scores or predictors;

''(B) shall not be required to create new records in order to comply with the consumer's request;

''(C) shall not be required to disclose to a consumer any information assembled by the financial institution, in a particular matter, as part of the financial institution's efforts to comply with laws preventing fraud, money laundering, or other unlawful conduct; and

''(D) shall not disclose any information required to be kept confidential by any other Federal law.

''(b) CORRECTION.—A financial institution shall provide a consumer the opportunity to dispute the accuracy of any information disclosed to the consumer pursuant to subsection (a), and to present evidence thereon. A financial institution shall correct or delete material information identified by a consumer that is materially incomplete or inaccurate.

''(c) COORDINATION AND CONSULTATION.—In prescribing regulations implementing this section, the Federal agencies specified in section 504(a) shall consult with one another to ensure that the rules—

''(1) impose consistent requirements on the financial institutions under their respective jurisdictions;

''(2) take into account conditions under which financial institutions do business both in the United States and in other countries; and

''(3) are consistent with the principle of technology neutrality.

''(d) CHARGES FOR DISCLOSURES.—A financial institution may impose a reasonable charge for making a disclosure under this section, which charge must be disclosed to the consumer before making the disclosure.''.

SEC. 7. IMPROVED ENFORCEMENT AUTHORITY.

(a) COMPLIANCE WITH PRIVACY POLICY.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following new subsection:

''(c) COMPLIANCE WITH PRIVACY POLICY.—A financial institution's failure to comply with any of its policies or practices disclosed to a consumer under this section constitutes a violation of the requirements of this section.''.

(b) UNFAIR AND DECEPTIVE TRADE PRACTICE.—Section 505(a)(7) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)(7)) is amended by adding at the end the following new sentence: ''A violation of any requirement of this subtitle, or the regulations of the Federal Trade Commission prescribed under this subtitle, by a financial institution or other person described in this paragraph shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.''.

(c) SUPPLEMENTAL STATE ENFORCEMENT FOR FTC REGULATED ENTITIES.—Section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) is amended by adding at the end the following new subsection:

''(e) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF THE STATES.—In addition to such other remedies as are provided under State law, if the attorney general of a State, or an officer authorized by the State, has reason to believe that any financial institution or other person described in section 505(a)(7) has violated or is violating this subtitle or the regulations prescribed thereunder by the Federal Trade Commission, the State may—

''(A) bring an action on behalf of the residents of the State to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction; and

''(B) bring an action on behalf of the residents of the State to enforce compliance with this subtitle and the regulations prescribed thereunder by the Federal Trade Commission, to obtain damages, restitution, or other compensation on behalf of the residents of such State, or to obtain such further and other relief as the court may deem appropriate.

''(2) RIGHTS OF THE FEDERAL TRADE COMMISSION.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and shall provide the Commission with a copy of its complaint; provided that, if such prior notice is not feasible, the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission shall have the right—

''(A) to move to stay the action, pending the final disposition of a pending Federal matter as described in paragraph (4);

''(B) to intervene in an action under paragraph (1);

''(C) upon so intervening, to be heard on all matters arising therein;

''(D) to remove the action to the appropriate United States district court; and

''(E) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the attorney general, or officers of such State who are authorized by such State to bring such actions, from exercising the powers conferred on the attorney general or such officers by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission has instituted an action for a violation of this subtitle, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this subtitle that is alleged in that complaint.''.

(d) STATE ACTION FOR VIOLATIONS OF BAN ON PRETEXT CALLING.—Section 522 of the Gramm-Leach-Bliley Act (15 U.S.C. 6822) is amended by adding at the end the following new subsection:

''(c) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF THE STATES.—In addition to such other remedies as are provided under State law, if the attorney general of a State, or an officer authorized by the State, has reason to believe that any person (other than a person described in subsection (b)(1)) has violated or is violating this subtitle, the State may—

''(A) bring an action on behalf of the residents of the State to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction; and

''(B) bring an action on behalf of the residents of the State to enforce compliance with this subtitle, to obtain damages, restitution, or other compensation on behalf of the residents of such State, or to obtain such further and other relief as the court may deem appropriate.

''(2) RIGHTS OF FEDERAL AGENCIES.—The State shall serve prior written notice of any action commenced under paragraph (1) upon the Attorney General and the Federal Trade Commission, and shall provide the Attorney General and the Commission with a copy of the complaint; provided that, if such prior notice is not feasible, the State shall serve such notice immediately upon instituting such action. The Attorney General and the Federal Trade Commission shall have the right—

''(A) to move to stay the action, pending the final disposition of a pending Federal matter as described in paragraph (4);

''(B) to intervene in an action under paragraph (1);

''(C) upon so intervening, to be heard on all matters arising therein;

''(D) to remove the action to the appropriate United States district court; and

''(E) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the attorney general, or officers of such State who are authorized by such State to bring such actions, from exercising the powers conferred on the attorney general or such officers by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Attorney General has instituted a criminal proceeding or the Federal Trade Commission has instituted a civil action for a violation of this subtitle, no State may, during the pendency of such proceeding or action, bring an action under this section against any defendant named in the criminal proceeding or civil action for any violation of this subtitle that is alleged in that proceeding or action.''.

SEC. 8. ENHANCED DISCLOSURE OF PRIVACY POLICIES.

(a) TIMING OF NOTICE TO CONSUMERS.—Section 503(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(a)) is amended to read as follows:

''(a) DISCLOSURE REQUIRED.—

''(1) TIME OF DISCLOSURE.—A financial institution shall provide a disclosure that complies with paragraph (2)—

''(A) to an individual upon the individual's request;

''(B) as part of an application for a financial product or service from the financial institution; and

''(C) to a consumer, prior to establishing a customer relationship with the consumer and not less frequently than annually during the continuation of such relationship.

''(2) DISCLOSURE FORMAT.—The disclosure required by paragraph (1) shall be a clear and conspicuous notice, in writing or in electronic form or other form permitted by the regulations implementing this subtitle, of such financial institution's policies and practices with respect to—

''(A) disclosing nonpublic personal information to affiliates and nonaffiliated third parties, consistent with section 502, including the categories of information that may be disclosed;

''(B) disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution; and

''(C) protecting the nonpublic personal information of consumers.

Such disclosure shall be made in accordance with the regulations implementing this subtitle.''.

(b) NOTICE OF RIGHTS TO ACCESS AND CORRECT INFORMATION.—Section 503(b)(2) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)(2)) is amended by inserting '', and a statement of the consumer's right to access and correct such information, consistent with section 511'' after ''institution''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 503(b)(1)(A) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)(1)(A)) is amended by striking ''502(e)'' and inserting ''502(f)''.

SEC. 9. LIMIT ON DISCLOSURE OF ACCOUNT NUMBERS.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended in subsection (e) (as so redesignated by section 5) by inserting ''affiliate or'' before ''nonaffiliated third party''.

SEC. 10. GENERAL EXCEPTIONS.

Section 502(f) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802)) (as so redesignated by section 5 of this Act) is amended—

(1) in the matter preceding paragraph (1), by striking ''Subsections (a) and (b)'' and inserting ''Subsection (a)'';

(2) in paragraph (1)—

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

(B) by inserting ''or'' after the semicolon at the end of subparagraph (C); and

(C) by inserting after subparagraph (C) the following new subparagraph:

''(D) performing services for or functions solely on behalf of the financial institution with respect to the financial institution's own customers, including marketing of the financial institution's own products or services to the financial institution's customers;'';

(3) in paragraph (4), by striking '', and the institution's attorneys, accountants, and auditors'';

(4) in paragraph (5), by inserting ''section 21 of the Federal Deposit Insurance Act,'' after ''title 31, United States Code,'';

(5) in paragraph (7), by striking ''or'' at the end;

(6) in paragraph (8), by striking the period and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

''(9) in order to facilitate customer service, such as maintenance and operation of consolidated customer call centers or the use of consolidated customer account statements; or

''(10) to the institution's attorneys, accountants, and auditors.''.

SEC. 11. DEFINITIONS.

Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended—

(1) in paragraph (3)—

(A) by striking ''(3) FINANCIAL INSTITUTION'' and all that follows through ''The term 'financial institution''' and inserting ''(3) FINANCIAL INSTITUTION.—The term 'financial institution'''; and

(B) by striking subparagraphs (B), (C), and (D);

(2) by amending paragraph (4) to read as follows:

''(4) NONPUBLIC PERSONAL INFORMATION.—The term 'nonpublic personal information' means—

''(A) any personally identifiable information, including a Social Security number—

''(i) provided by a consumer to a financial institution, in an application or otherwise, to obtain a financial product or service from the financial institution;

''(ii) resulting from any transaction between a financial institution and a consumer involving a financial product or service; or

''(iii) obtained by the financial institution about a consumer in connection with providing a financial product or service to that consumer, other than publicly available information, as such term is defined by the regulations prescribed under section 504; and

''(B) any list, description or other grouping of one or more consumers of the financial institution and publicly available information pertaining to them.''; and

(3) in paragraph (9), by inserting ''applies for or'' before ''obtains''.

SEC. 12. ISSUANCE OF IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—The Federal agencies specified in section 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)) shall prescribe regulations implementing the amendments to subtitle A of title V of the Gramm-Leach-Bliley Act made by this Act, and shall include such requirements determined to be appropriate to prevent their circumvention or evasion.

(b) COORDINATION, CONSISTENCY, AND COMPARABILITY.—The regulations issued under subsection (a) shall be issued in accordance with the requirements of section 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)), except that the deadline in section 504(a)(3) shall not apply.

SEC. 13. FTC RULEMAKING AUTHORITY UNDER THE FAIR CREDIT REPORTING ACT.

Section 621(e) of the Fair Credit Reporting Act (15 U.S.C. 1681s(e)) is amended by adding at the end the following new paragraph:

''(3) REGULATIONS.—The Federal Trade Commission shall prescribe such regulations as necessary to carry out the provisions of this title with respect to any persons identified under paragraph (1) of subsection (a). Prior to prescribing such regulations, the Federal Trade Commission shall consult with the Federal banking agencies referred to in paragraph (1) of this subsection in order to ensure, to the extent possible, comparability and consistency with the regulations issued by the Federal banking agencies under that paragraph.''.

JANUARY 22, 2001.

DEAR SENATOR SARBANES: We are writing in support of the introduction of the Financial Information Privacy Act of 2001. If passed this legislation will correct many of the shortcomings of the Gramm-Leach-Biley Act. The Financial Privacy Act will be a significant improvement for consumers by requiring financial institutions to obtain a consumer's consent before sensitive financial and medical data is shared, extending privacy protections to the sharing of information among affiliated companies, and allowing consumers to have access to the information about them that is held by financial institutions.

The GLB's privacy provisions are grossly inadequate. Mere notice that data is being collected with a limited ability of consumers to prevent the sharing of personal data—one that is riddled with loopholes—fail to provide the privacy protections that American consumers want and deserve. Instead of protecting personal privacy, GLB protects the ability of the financial services industry to collect and use personal information about their customers with virtually no restrictions.

As personal privacy continues to erode, it is vital that consumers be given strong privacy protections. The current trend of favoring the appetite of business interests over the privacy of individuals must be reversed.

If a financial institution cannot convince its customers that the sharing of their personal information will be safe and beneficial to them, then the financial institution should not be allowed to share that information.

The Financial Privacy Act is a step in advancing some of the Fair Information Principles supported by our organizations in the context of financial services. We will continue to seek the strongest possible privacy safeguards for Americans, including expanded medical privacy protections, limitations on initial collection practices, and increased enforcement mechanisms. Those protections may even go beyond those in this bill.

We appreciate your introducing this important legislation and look forward to working with you on future legislative efforts to protect the privacy of all Americans.

Ken McEldowney, Consumer Action.
Travis Plunkett, Consumer Federation of America.
Frank Torres, Consumers Union.
Jason Catlett, Junkbusters.
Even Hendricks, Privacy Times.
Mary Rouleau, United Auto Workers.
Edmund Mierzwinski, US Public Interest Research Group.

Mr. LEAHY. Mr. President, I am pleased today to be a original cosponsor of the Financial Information Privacy Protection Act of 2001. I am delighted to join Senator SARBANES, the ranking member of the Senate Banking Committee, who is a real leader in the Senate on protecting personal financial information.

In November 1999, President Clinton signed into law the landmark Financial Modernization Act, which updated our financial laws and opens up the financial services industry to become more competitive, both at home and abroad. Many of my colleagues and I supported that legislation because we believe it will benefit businesses and consumers. It is already making it easier for banking, securities, and insurance firms to consolidate their services, cut expenses and offer more products at a lower cost to all. But this consolidation also raises new concern about our financial privacy.

New conglomerates in the financial services industry are offering a widening variety of services, each of which may require a customer to provide financial, medical or other personal information. Nothing in the new law prevents these new subsidiaries or affiliates of financial conglomerates from sharing this information for uses beyond those the customer thought he or she was providing it. For example, the new law has no requirement for the consumer to control whether these new financial subsidiaries or affiliates sell, share, or publish information on savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts or health insurance claims. That is wrong.

I believe the Financial Information Privacy Protection Act of 2001 should serve as the foundation for model financial privacy legislation that Congress enacts into law this year. This bill is a common sense approach that can attract both consumers and the industry.

Privacy is one of our most vulnerable rights in the information age. Digitalization of information offers tremendous benefits but also new threats. Some in Congress are content to punt the privacy issue down the field for another year. The public disagrees. People know that the longer we dawdle, the harder it will be to halt the erosion of privacy. A year is an eternity in the digital age.

The right of privacy is a personal and fundamental right protected by the Constitution of the United States. But today, the American people are growing more and more concerned over encroachments on their personal privacy. To return personal financial privacy to the control of the consumer, this legislation would create the following rights in Federal law.

New Right To Opt-out of Information Sharing By Affiliates. The new financial modernization law permits consumers to say no to information sharing, selling or publishing among third parties in many cases, but not among affiliated firms. The Financial Information Privacy Act of 2001 would require financial conglomerates, which will only grow under the new modernization law, to expand this protection to give consumers the right to notify it (opt-out) to stop all information sharing, selling or publishing of personal financial information among all third parties and affiliates.

New Right For Consumers To Opt-In For Sharing of Medical Information and Personal Spending Habits. The Financial Information Privacy Protection Act of 2001 would require financial firms to get the affirmative consent (opt-in) of consumers before a firm could gain access to medical information within a financial conglomerate or share detailed information about a consumer's personal spending habits.

New Right To Access and Correct Financial Information. The Financial Information Privacy Protection Act of 2001 would give consumers the right to review and correct their financial records, just like consumers today may review and correct their credit reports.

New Right To Privacy Policy Up Front. The Financial Information Privacy Protection Act of 2001 would require financial firms to provide their privacy policies to consumers before committing to a customer relationship, not after. In addition, the bill's new rights would be enforced by federal banking regulators, the Federal Trade Commission and state attorney generals.

Unfortunately, if you have a checking account, you may have a financial privacy problem. Your bank may sell or share with business allies information about who you are writing checks to, when, and for how much. And even if you tell your bank to stop, it can ignore you under current law. This legislation returns to consumers the power to stop the selling or sharing of personal financial information.

Americans ought to be able to enjoy the exciting innovations of this burgeoning information era without losing control over the use of their financial information. The Financial Information Privacy Protection Act of 2001 updates United States privacy laws to provide these fundamentals protections of personal financial information in the evolving financial services industry. I urge my colleagues to support it.

By Mr. CAMPBELL:

S. 31. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

ESTATE AND GIFT TAX RATE REDUCTION ACT OF 2001

Mr. CAMPBELL. Mr. President, today I reintroduce a bill that I feel is of vital importance to farmers and family business owners, the Estate and Gift Tax Rate Reduction Act of 2001.

This bill is based on legislation I introduced in the 105th Congress and the 106th Congress. Unfortunately, the 105th Congress adjourned before we could debate and pass this bill and President Clinton vetoed similar legislation during the 106th Congress. Since then, I have heard from numerous Coloradans and National organizations and am fully aware that the problems the bill would correct still exist. In fact, I have heard from hundreds of Coloradans and constituents from other states regarding this burdensome and overreaching tax. I believe that eliminating this tax is a fundamental issue of fairness. Death should not be an event government prospers from.

Estate and gift taxes remain a burden on American families, particularly those who pursue the American dream of owning their own business. That is because family-owned businesses and farms are hit with the highest tax rate when they are handed down to descendants—often immediately following the death of a loved one. Families ought to be encouraged, not discouraged, from building successful farms, ranches and businesses and keeping the ownership of those enterprises within the families that worked to make them successful.

These taxes, and the financial burdens and difficulties they create come at the worst possible time. Making a terrible situation worse is the fact that the rate of this estate tax is crushing, reaching as high as 55 percent for the highest bracket. That's higher than even the highest income tax rate bracket of 39 percent. Furthermore, the tax is due as soon as the business is turned over to the heir, allowing no time for financial planning or the setting aside of money to pay the tax bills. Estate and gift taxes right now are one of the leading reasons why the number of family-owned farms and businesses are declining; the burden of this tax is just too much to bear.

This tax sends the troubling message that families should either sell the business while they are still alive, in order to spare their descendants this huge tax after their passing, or run-down the value of the business, so that

it won't make it into the higher tax brackets. This is not how America was built. Private investment and initiative have historically been a strong part of our American heritage and we should encourage those values, not tax successful family businesses into submission.

That is why I again introduce this bill and will fight for its passage during the 107th Congress. It will gradually eliminate this tax by phasing it out—reducing the amount of the tax 5% each year, beginning with the highest rate bracket of 55%, until the tax rate reaches zero. Several states have already adopted similar plans, and I believe we ought to follow their example. We need to change the message we are sending to farmers and family business owners. Leading organizations agree, and have continuously endorsed this legislation. In fact, over 100 organizations, like the National Federation of Independent Business and the Farm Bureau, have joined together to form the Family Business Estate Tax Coalition, which strongly endorsed this bill during the 106th Congress.

Mr. President, this tax should be eliminated across the board, and I ask my colleagues to help in working to achieve that goal.

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

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

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 ''Estate and Gift Tax Rate Reduction Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) estate and gift tax rates, which reach as high as 55 percent of a decedent's taxable estate, are in most cases substantially in excess of the tax rates imposed on the same amount of regular income and capital gains income; and

(2) a reduction in estate and gift tax rates to a level more comparable with the rates of tax imposed on regular income and capital gains income will make the estate and gift tax less confiscatory and mitigate its negative impacts on American families and businesses.

SEC. 3. PHASEOUT OF ESTATE AND GIFT TAXES.

(a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2011.

(b) PHASEOUT OF TAX.—Subsection (c) of section 2001 of such Code (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

''(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2001 and before 2012—

''(A) IN GENERAL.—The tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

''(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

''(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

''(B) PERCENTAGE POINTS OF REDUCTION.—

''For calendar year:	The number of percentage points is:
2002	5
2003	10
2004	15
2005	20
2006	25
2007	30
2008	35
2009	40
2010	45
2011	50.

''(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) shall be applied by reducing the 55 percent percentage contained therein by the number of percentage points determined for such calendar year under subparagraph (B).

''(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the number of percentage points referred to in subparagraph (A)(i) shall be determined under the following table:

''For calendar year:	The number of percentage points is:
2002	1½
2003	3
2004	4½
2005	6
2006	7½
2007	9
2008	10½
2009	12
2010	13½
2011	15.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2001.

By Mr. THURMOND:

S. 32. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from imposing a tax increase as a judicial remedy.

It has always been my firm belief that Federal judges exceed the boundaries of their limited jurisdiction under the Constitution when they order new taxes or order increases in existing tax rates.

The Founding Fathers clearly understood that taxation was a role for the legislative branch and not the judicial branch. Article I of the Constitution lists the legislative powers, one of which is that ''the Congress shall have the power to lay and collect taxes.'' Article III establishes the judicial powers, and the power to tax is nowhere contained in Article III.

The Federalist Papers are also clear in this regard. in Federalist No. 48, James Madison explained that ''the legislative branch alone has access to the pockets of the people.'' In Federalist No. 78, Alexander Hamilton stated, ''The judiciary . . . has no influence over . . . the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever.''

In 1990, in the case of Missouri v. Jenkins, five members of the Supreme Court stated in dicta that although a Federal judge could not directly raise taxes, he could order the local government to raise taxes. There is no difference between a judge raising taxes and a judge ordering a legislative official to raise taxes. I am hopeful that, if the issue were directly before the Court today, a majority of the current membership of the Court would reject that dicta and hold that Federal judges do not have the power to order that taxes be raised. However, in the event the Court does not correct this error, I am introducing the Judicial Taxation Prohibition Act, which would prohibit judges from raising taxes. I have introduced it in every Congress since the Supreme Court's misguided decision was issued, and I intend to do so until it is corrected. This legislation is essential to affirm the separation of powers.

There is a simple reason why this distinction between the branches of government is so important and must remain clear. The legislative branch is responsible to the people through the democratic process. However, the judicial branch is composed of individuals who are not elected and have life tenure. By design, the members of the judicial branch do not depend on the popular will for their offices. They are not accountable to the people. They simply have no business setting the rate of taxes the people must pay. For a judge to order that taxes be increased amounts to taxation without representation. It is entirely contrary to the understanding of the Founding Fathers.

The phrase ''taxation without representation'' recalls an important time in American history that is worth repeating in some detail. The Constitution can best be understood by referencing the era in which it was adopted.

Not since Great Britain's ministry of George Grenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision. As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, and linens.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the parliament did not have power to tax the colonies because Americans had no representation in that body. Mr.

Otis had been attributed with the statement in 1761 that ''taxation without representation is tyranny.''

In October 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act, ''we have always understood it to be a grand and fundamental principle * * * that no free man shall be subject to any tax to which he has not given his own consent, in person or by proxy.'' A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, ''It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives.'' The resolutions concluded that the Stamp Act had a ''manifest tendency to subvert the rights and liberties of the colonists.''

Opposition to the Stamp Act was vehement throughout the colonies. While Grenville's successor was determined to repeal the law, the social, economic, and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution of 1787.

I recognize that some say this legislation is unconstitutional. They argue that the Congress does not have the authority under Article III to limit and regulate the jurisdiction of the inferior Federal courts. This argument has no basis in the Constitution or common sense.

Article III, Section 1, of the Constitution provides jurisdiction to the lower Federal courts as the ''Congress may from time to time ordain and establish.'' There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to ''ordain and establish'' the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lawcourt v. Phillips, Lauf v. E.G. Skinner and Co., Kline v. Burke Construction Co., and Sheldon v. Sill.

In other words, the Congress was expressly granted the authority to establish lower Federal courts, which it did. What the Congress has been given the power to do, it can certainly decide to stop doing. By passing this bill, the Congress would simply be limiting the jurisdiction of the lower Federal courts in a small area.

It is also important to note that this legislation would not restrict the power of the Federal courts to remedy Constitutional wrongs. Clearly, the Court has the power to order a remedy for a Constitutional violation that may include expenditures of money by Federal, State, or local governments. This bill simply requires that if the Court orders that money be spent, it is for the legislative body to decide how to comply with that order. The legislative body may choose to raise taxes, but it also may choose to cut spending or sell assets. That choice of how to come up with the money should always be for the legislature to decide. I believe it is clear under Article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal Courts in this fashion.

Mr. President, the dispositive issue presented by the *Jenkins* decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government.

Judicial activism is a matter of great concern to me and has been for many years. I have always felt that Federal judges must strictly adhere to the principle that it is their role to interpret the law and not make the law. This simple principle is fundamental to our system of government.

The American people deserve a response to the *Jenkins* decision. We must provide protection against the imposition of taxes by an unelected, unaccountable judiciary. We must not permit this blatant violation of the separation of powers. We have a duty to right this wrong.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD following my remarks.

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

S. 32

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 ''Judicial Taxation Prohibition Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law; and

(B) the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the imposition or increase of taxes by judicial order—

(A) constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States; and

(B) is incompatible with traditional principles of law and government of the United States and the basic principle of the United States that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts that Congress has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. JUDICIAL TAXATION PROHIBITION.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1341 the following:

''§ 1341A. Prohibition of judicial imposition or increase of taxes

''(a) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

''(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within the jurisdiction of those courts, that may require expenditures by a Federal, State, or local government in any case in which those expenditures are necessary to effectuate those remedies.

''(c) In this section, the term 'tax' includes—

''(1) personal income taxes;

''(2) real and personal property taxes;

''(3) sales and transfer taxes;

''(4) estate and gift taxes;

''(5) excise taxes;

''(6) user taxes;

''(7) corporate and business income taxes; and

''(8) licensing fees or taxes.''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1341 the following:

''1341A. Prohibition of judicial imposition or increase of taxes.''.

SEC. 4. APPLICABILITY.

This Act and the amendments made by this Act shall apply to cases pending or commenced in a Federal court on or after the date of enactment of this Act.

By Mr. THURMOND (for himself and Mr. HELMS):

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

Mr. THURMOND. Mr. President. I rise today to introduce legislation to address an undue burden that has arisen out of the Americans with Disabilities Act.

The purpose of the ADA was to give disabled Americans the opportunity to fully participate in society and contribute to it. This was a worthy goal. But even legislation with the best of intentions often has unintended consequences. I submit that one of those is the application of the ADA to state and local prisoners throughout America.

In 1998, the Supreme Court ruled in *Pennsylvania Department of Corrections* v. *Yeskey* [118 S.Ct. 1952 (1998)] that the

ADA applies to every state prison and local jail in this country. To no avail, the Attorneys General of most states, as well as numerous state and local organizations, had joined with Pennsylvania in court filings to oppose the ADA applying to prisoners.

Prior to the Supreme Court ruling, the circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, had forcefully concluded that the ADA, as well as its predecessor and companion law, the Rehabilitation Act, did not apply to state prisoners. The decision focused on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the states.

However, the Supreme Court did not agree, holding that the language of the Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress's powers under the Commerce Clause or the Fourteenth Amendment, but we should not wait on the Supreme Court to consider this argument before acting. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the application of this sweeping new social legislation in the prison environment.

The Seventh Circuit has recognized that the ''failure to exclude prisoners may well have been an oversight.'' The findings and purpose of the law seem to support this. The introductory language of the ADA states, ''The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency'' to allow ''people with disabilities * * * to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.'' Of course, a prison is not a free society, as the findings and purpose of the Act envisioned. Indeed, it is quite the opposite. In short, as the Ninth Circuit explained, ''The Act was not designed to deal specifically with the prison environment; it was intended for general societal application.''

In any event, now that the Supreme Court has spoken, it is time for the Congress to confront this issue. The Congress should act now to exempt state and local prisons from the ADA. That is why I am again introducing the State and Local Prison Relief Act, as I did soon after the Supreme Court decided the Yeskey case in 1998.

The State and Local Prison Relief Act would exempt prisons from the requirements of the ADA and the Rehabilitation Act for prisoners. More specifically, it exempts any services, accommodations, programs, activities or treatment of any kind regarding prisoners that may otherwise be required by the Acts. Through this language, I wish to make entirely clear that the bill is not intended to exempt prisons from having to accommodate disabled legal counsel, visitors, or others who are not inmates. Also, the fact that the bill applies to Title II of the ADA should make clear that it is not intended to exempt prison hiring practices for non-inmate employees. The bill is intended only to apply to prisoners.

I firmly believe that if we do not act, the ADA will have broad adverse implications for the management of penal institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judges in the intricate details of running our state and local prisons.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers not delegated to the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, ''the powers delegated to the Federal government are few and definite. . . . [The powers] which are to remain in the State governments are numerous and indefinite.'' The Federal government should avoid intrusion into matters traditionally reserved for the states. We must respect this delicate balance of power. Unfortunately, federalism is more often spoken about than respected.

Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved for the states than crime. The criminal laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house Federal prisoners in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of the Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated, ''Maintenance of penal institutions is an essential part of one of government's primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures.''

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations, the daily schedules, the living and working arrangements—these all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA essentially is to take away any barrier to anyone with any disability. Accommodating inmates in the manner required by the ADA will interfere with the ability of prison administrators to keep safety and security their overriding concern.

For example, a federal court in Pennsylvania ruled that a prisoner who disobeyed a direct order could not be punished because of the ADA. The judge said it was okay for a prisoner to return to his cell after he was told not to by a guard, saying the prisoner was justified in refusing to comply because he was doing so to relieve stress built up due to his Tourette's Syndrome.

The practical effect of the ADA will be that prison officials will have to grant special privileges to certain inmates and to excuse others from complying with generally-applicable prison rules. For example, a federal judge ordered an Iowa prison to install cable television in a disabled inmate's cell because the man had difficulty going to the common areas to watch TV. After much public protest, the ruling was eventually reversed.

The ADA presents a perfect opportunity for prisoners to try to beat the system, and use the courts to do it. There are over 1.7 million inmates in state prisons and local jails, and the numbers are rising every year. Indeed, the total prison population has grown about 6.5% per year since 1990. Prisons have a substantially greater percentage of persons with disabilities that are covered by the ADA than the general population, including AIDS, mental retardation, psychological disorders, learning disabilities, drug addiction, and alcoholism. Further, administrators control every aspect of prisoners' lives, such as assigning educational opportunities, recreation, and jobs in prison industries. Combine these facts, and the possibilities for lawsuits are endless.

For example, in most state prison systems, inmates are classified and assigned based in part on their disabilities. This helps administrators meet the disabled inmates' needs in a cost-effective manner. However, under the ADA, prisoners probably will be able to claim that they must be assigned to a prison without regard to their disability. Were it not for their disability, they may have been assigned to the prison closest to their home, and in that case, every prison would have to be able to accommodate every disability. That could mean every prison having, for example, mental health treatment centers, services for hearing-impaired inmates, and dialysis treatment. The cost is potentially enormous.

A related expense is attorney's fees. The ADA has incentives to encourage private litigants to vindicate their rights in court. Any plaintiff, including an inmate, who is only partially successful can get generous attorney's fees and monetary damages, possibly including even punitive damages. In one

ADA class action lawsuit in California, the state has paid the prisoners' attorneys over $2 million, with hourly fees as high as $300.

Applying the ADA to prisons is the latest unfunded Federal mandate that we are imposing on the states.

Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money must be spent to house prisoners. Even with prison populations rising, the people do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's Yeskey case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program has to be changed to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others get in a world where privileges are relatively few. Some have irrational suspicions and phobias. An inmate who is not disabled may be angry if he believes a disabled prisoner is getting special treatment, without rationally accepting that the law requires it, and could take out his anger on others around him, including the disabled prisoner.

We must keep in mind that it is judges who will be making these policy decisions. To apply the Act and determine what phrases like ''qualified individual with a disability'' mean, judges must involved themselves in intricate, fact-intensive issues. Essentially, the ADA requires judges to micromanage prisons. Judges are not qualified to second-guess prison administrators and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

In applying Constitutional rights to prisoners, the Supreme Court has tried to get away from micromanagement and has viewed prisoner claims deferentially in favor of the expertise of prison officials. It has stated that we will not ''substitute our judgment on difficult and sensitive matters of institutional administration for the determinations of those charged with the formidable task of running a prison. This approach ensures the ability of corrections officials to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration, and avoids unnecessary intrusion of the judiciary into problems particularly ill suited to resolution by decree.''

Take for example a case from the Fourth Circuit, my home circuit, from 1995. The Court explained that a morbidly obese inmate presented corrections officials ''with a lengthy and ever-increasing list of modifications which he insisted were necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid matting in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods.'' It is not workable for judges to resolve all of these questions.

It is noteworthy that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recognized last year, the PLRA is having some success. However, this most recent Supreme Court decision will hamper that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. In response, the Federal bureaucracy has created extremely specific and detailed mandates. Regarding facilities, they dictate everything from the number of water fountains to the flash rates of visual alarms. State and local correctional authorities must fall in line behind these regulations. In yet another way, we have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The list goes on.

The public is tired of special privileges for prisoners. Applying the ADA to prisons is a giant step in the wrong direction. Prisoners will abuse the ADA to get privileges they were previously denied, and the reason will be the overreaching hand of the Federal government. We should not let this happen.

Mr. President, the National Government has gone full circle. We have gone from asking the states to house Federal prisoners to dictating to the states how they house their own prisoners. There must be some end to the powers of the Federal government, and to the privileges it grants the inmates of this Nation. I propose that we start by passing this important legislation.

I ask unanimous consent that following my remarks a copy 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. 33

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

SECTION 1. EXCLUSION OF PRISONERS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)) is amended by adding at the end the following: ''The term shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to services, programs, activities, and treatment (including accommodations) relating to the prison.''.

(b) REHABILITATION ACT OF 1973.—Section 7(20) of the Rehabilitation Act of 1973 (29 U.S.C. 705(20)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following:

''(G) PRISON PROGRAMS AND ACTIVITIES; EXCLUSION OF PRISONERS.—For purposes of section 504, the term 'individual with a disability' shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to programs and activities (including accommodations) relating to the prison.''.

By Mr. THURMOND:

S. 34. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

LEGISLATION TO ALLOW FEDERAL CRIMINAL CONVICTION ON A 10–2 JURY VOTE

Mr. THURMOND. Mr. President, I rise today to introduce legislation to allow juries to convict criminals on a 10–2 jury vote rather than a unanimous vote.

It is my belief that this change to the Federal Rules of Criminal Procedure will bring about increased efficiency and finality in our Nation's Federal court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity in jury verdicts, specifically in *Apodaca* v. *Oregon* [406 U.S. 404 (1972)]. In that case, the Supreme Court ruled that the Sixth Amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon law that permitted what I am proposing—a 10–2 conviction in criminal prosecutions.

Mr. President, clearly there is no constitutional mandate for the current requirement under the Federal Rules of a jury verdict by a unanimous vote. The origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote

for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted towards the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

It is interesting that a unanimity requirement was considered by our Founding Fathers as part of the Sixth Amendment to the Constitution, but it was rejected. The proposed language for the Sixth Amendment, as introduced by James Madison in the House of Representatives, provided for trial by jury as well as a ''requisite of unanimity for conviction.'' The language eventually adopted by the Congress and the States in the Sixth Amendment provides ''the right to a speedy and public trial, by an impartial jury,'' but does not specify any requirement on conviction. This was a wise decision.

It is clear that ''trial by jury in criminal cases is fundamental to the American scheme of justice,'' as the Supreme Court has stated. Juries are representative of the community and their solemn duty is to hear the evidence, deliberate, and decide the case after careful review of the facts and the law. As the Supreme Court has noted, a jury can responsibly perform this function if allowed to decide the case by a margin that is less than unanimous.

This change for jury verdicts in the Federal courts will reduce the likelihood of a single juror corrupting an otherwise thoughtful and reasonable deliberation of the evidence. It is not easy to adequately screen a juror for potential bias before they are selected to serve on a jury. This cannot be done with absolute certainty. We should work to prevent one such juror from having the power to prevent justice from being served.

One juror should not have the power to allow a criminal to go free in the face of considerable opposition from his peers on the jury. Even if a defendant is tried again after one or two jurors hold out against conviction, a new trial is very costly and time-consuming. Most importantly, a new trial substantially delays justice for the victims and society.

It is important to note that this new rule could also work to the advantage of someone on trial. Currently, if there is a hung jury, a prosecutor has the power to retry a defendant. This is true even if only one juror believed the defendant was guilty. Under this new rule, if at least ten jurors concluded that the defendant was not guilty, he would be acquitted and could not be forced to endure a new trial. This rule has the potential to benefit either side as it brings finality to a criminal case.

In other words, there are cases where a requirement of unanimity produced a hung jury where, had there been a non-unanimous allowance, the jury would have voted to convict or acquit. Yet, in either instance, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

Moreover, I believe the American people will strongly support this reform to allow a 10–2 decision. This is one way the Congress can help fight crime and promote criminal justice.

Mr. President, I hope the Congress will support this important proposal. I ask unanimous consent that the bill be printed in its entirety in the RECORD.

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

S. 34

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

SECTION 1. AMENDMENT OF RULE 31 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) IN GENERAL.—Rule 31(a) of the Federal Rules of Criminal Procedure is amended by striking ''unanimous'' and inserting ''by five-sixths of the jury''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to cases pending or commenced on or after the date of enactment of this Act.

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

S. 35. A bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it; to the Committee on Finance.

TAX CUT WITH A PURPOSE ACT OF 2001

Sen. GRAMM. Mr. President, I am introducing legislation today with my colleague, Senator MILLER of Georgia, to provide tax relief for America's families by returning a portion of the tax surplus to the working men and women who are responsible for creating it.

Our proposal consists of the core elements of the plan that President Bush outlined during his campaign for the Presidency. There are three principle components: Lower income tax rates for all Americans, relief from the marriage tax penalty, and repeal of the death tax. The bill replaces the current tax rate structure with rates of 10, 15, 25, and 33 percent. Lower income Americans get a larger percentage cut in rates, higher income Americans get a smaller reduction, but obviously this is a tax cut for taxpayers.

The next provision of the bill begins the effort to repeal the marriage penalty. There is no reason in America that people who meet and fall in love should have to pay $1,400 a year in additional taxes as the price of getting married. Senator MILLER and I are for love and marriage, and we don't think they ought to be taxed.

The final major provision of the bill is repeal of the death tax. A death tax is double taxation in which people work their whole lives, build up a business or a family farm, and pay taxes on every penny they earn. Yet when they die, their children have to sell the business or the family farm in order to give the government up to 55 cents out of every dollar of its value. This is fundamentally unfair.

Finally, since our President was elected three things have happened, and every one of them argues for this package of tax cuts. No. 1, the economy is weaker and investment is falling off. Secondly, our estimates of the budget surplus have gone up, not down. And lastly, that surplus is being spent at an unprecedented rate.

We believe that Congress should enact the Bush tax plan, continue to pay down the debt, and resist the urge to spend the tax surplus so that we can return a portion of it to the working men and women who produced it.

Mr. MILLER. Mr. President, I am very pleased to join with Senator GRAMM as a sponsor of this important piece of legislation, first because it is an opportunity to reach across party lines and really practice bipartisanship, not just talk about it. But I'm even more pleased to be a cosponsor because of the far-reaching consequences of this bill.

Right now, our taxes have never been higher. Right now, our surplus has never been greater. To me, it's just common sense you deal with the first by using the second.

Remember that old Elvis Presley song, ''Return to Sender.'' Well, that's what we want to do with this overpayment of taxes.

As some of you know, I've been in politics for a long time, and I thought I had seen it all. But when I came to Washington last year I was not prepared for the shock of just how matter of factly Congress ate into the surplus, gobbled it up indiscriminately and without hesitation on both sides of the aisle.

I couldn't believe it and it became clear to me that if we don't send this overpayment of taxes back to those who paid it, much of it will be frittered away, and I think most Americans have enjoyed as much of that as they can stand.

Some of my colleagues talk of ''targeted'' tax cuts, and I respect their opinion, I respect them. But here's how I think about that: who are we to pick and choose and cull and select and single out among our taxpayers.

Who are we to play ''eeny, meany, miney, mo,'' with them. All of them combined have paid more than it takes to run this government. And all of them combined should get a break from this oppressive tax structure of ours.

This plan would make our tax code more progressive by cutting federal income taxes for people all across the income spectrum, and the largest percentage cuts would go to those Americans who earn the least. Under this proposal, six million families will no longer pay any federal income taxes at all. That's one out of five families with children.

Any time I look at a tax cut, I always apply it to the family I grew up in: a single parent with two children. Under

the current rate, that single parent begins paying taxes when she earns $21,300. Under this plan, she would not become a taxpayer until her earnings reach $31,300.

Lower taxes gives Americans a better chance at a better standard of living. It can mean the difference between renting or buying a home. Today, it can be the difference between being able, or not being able, to pay your heating bill.

No one in America should have to work more than four months out of a year to pay the IRS, and in peacetime, the federal government should never take more than 33% out of anyone's pay check.

I also believe this tax cut could help provide some needed insurance against a long-lasting economic slow down. But most importantly, and why I'm here, is that I agree with President Bush that the taxpayers are much better judges of how to spend their own money than we are.

When I was governor of Georgia, I was proud that in my state we cut taxes by more than a billion dollars. As a U.S. Senator, I'm looking forward to cutting taxes in this nation by more than a trillion dollars.

Mr. THURMOND:

S. 36. A bill to amend title 1, United States Code, to clarify the effect and application of legislation; to the Committee on the Judiciary.

AN ACT TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill to clarify the application and effect of legislation which the Congress enacts.

My act is simple and straightforward. It provides that unless future legislation expressly states otherwise, new enactments shall be applied prospectively and shall not create private rights of action. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is to tackle a persistent problem that is easy to prevent. When Congress enacts a bill, the legislation often does not indicate whether it is to be applied retroactively or whether it creates private rights of action. The failure of the Congress to address these issues in each piece of legislation results in unnecessary confusion and uncertainty. This uncertainty leads to lawsuits, thereby contributing to the high cost of litigation and the congestion of our courts.

In the absence of clear action by the Congress on its intent regarding these critical threshold questions, the outcome is left up to the courts. Whether a law applies to conduct that occurred before the effective date of the Act and whether a private person has been granted the right to sue on their own behalf in civil court under an Act can be critical or even dispositive of a case. Even if the issue is only one aspect of a case and it is raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Currently, courts attempt to determine the intent of the Congress in deciding the effect and application of legislation in this regard. Thus, courts look first and foremost to the statutory language. If a statute expressly provides that it is retroactive or creates a private cause of action, that dictate is followed. Further, courts apply a presumption that legislation is not retroactive. This is an entirely appropriate, longstanding rule because, absent mistake or an emergency, fundamental fairness generally dictates that conduct should be assessed under the rules that existed at the time the conduct took place. There is a similar presumption that the Congress did not intend to create rights beyond those that it expressly includes in its legislation.

If the intent of Congress is not clear from the statute, courts generally look to legislative history, statutory structure, and possibly other sources of Congressional intent. This is where the unnecessary complexity and confusion is created. Sources other than statutory language are to varying degrees less reliable in predicting Congressional intent. They are much more difficult to interpret and may even be contradictory. The more sources for the course to analyze and the more vague the standard for review, the more likely courts will reach different results. Under current practice, trial courts around the country reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed.

The problem of whether legislation is retroactive was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over the country were required to resolve whether the 1991 Act should be applied retroactively, and the issue ultimately was considered by the Supreme Court. However, by the time the Court resolved the issue in 1994, well over 100 lower courts had ruled on this question and, although most had not found retroactivity, their decisions were inconsistent. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

All this litigation arose from a statute that contained no language providing that it be retroactive. To conclude that the provision of the statute in issue in the case was not to be applied retroactively, the majority opinion of the Court took 39 pages in the United States Reporter to explain why. It undertook a detailed analysis that demonstrates the unnecessary complexity of the current standard. It is no wonder that some Supreme Court justices argued in this case that a court should look only to whether the language of the statute expressly provides for retroactivity. That is what I propose. If my law had been in effect, the litigation would have been averted, while the outcome would have been exactly the same as the Supreme Court decided.

Under my bill, newly enacted laws are not to be applied retroactively and do not create a private right of action, unless the legislation expressly provides otherwise. It is important to note that my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply stating when it wishes legislation to be retroactive or create new private rights of action.

It is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding a great deal of uncertainty and litigation. The Administrative Office of the Courts has expressed support for this important clarification to the law.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should help our judicial system to focus its limited time and resources on resolving the merits of disputes, rather than deciding these preliminary matters. We hear numerous complaints about overworked judges and crowded dockets. This is a simple and straightforward way to do something about it. The Congress can help reduce the Federal caseload and help simplify the law. We should act on this important reform promptly.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD in its entirety.

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

S. 36

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

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code is amended by adding at the end the following:

"§ 7. Rules for application and effect of legislation

''Any Act of Congress enacted after the effective date of this section—

''(1) shall be prospective in application only;

''(2) shall not create a private claim or cause of action; and

''(3) shall be presumed not to preempt the law of any State,

unless a provision of the Act expressly specifies otherwise.''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding at the end the following:

''7. Rules for application and effect of legislation.''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

By Mr. LUGAR (for himself, Mr. LEAHY, Mr. FITZGERALD, Mr. HARKIN, Mr. ROBERTS, Mr. DODD, Mr. DEWINE, Mr. REID, Mr. SANTORUM, Mr. BAYH, and Mr. JOHNSON):

S. 37. A bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory; to the Committee on Finance.

THE GOOD SAMARITAN HUNGER RELIEF TAX INCENTIVE ACT

Mr. LUGAR. Mr. President, I rise today with Senators LEAHY, FITZGERALD, HARKIN, ROBERTS, DODD, DEWINE, REID, SANTORUM, and BAYH to introduce the Good Samaritan Hunger Relief Tax Incentive Act, bipartisan legislation aimed at increasing food donations to our nation's food banks. Next week, Congressman TONY HALL, who has been a leader in Congress in the fight against hunger, will introduce companion legislation in the House of Representatives. This bill would provide important incentives for farmers, restaurant owners, and corporations to donate food to front-line organizations that serve the hungry.

The demand on our nation's food banks, church pantries, soup kitchens and shelters continues to rise. According to an August 2000 report on Hunger Security by the U.S. Department of Agriculture, 31 million Americans (around 10 percent of our citizens) are living on the edge of hunger. One segment of our population—families with incomes between 50 and 130 percent of the poverty level—has experienced an increase in the number of households that are food insecure since 1995. This study confirms what food bank managers and workers have been telling me—while many families are moving from welfare to work, these families are still vulnerable to hunger and are using food banks to supplement their nutritional needs.

Unfortunately, many food banks cannot meet this increased demand for food. A December 1999 study by the U.S. Conference of Mayors found that requests for emergency food assistance increased by an average of 18 percent in American cities over the previous year and that 21 percent of emergency food requests could not be met.

These figures are troubling because of the enormous amount of food that goes unused annually. The United States Department of Agriculture estimates that up to 96 billion pounds of food goes to waste each year in the United States. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger.

In many ways, current law is a hindrance to food donations. The tax code provides corporations with a special deduction for donations to food banks, but it excludes farmers, ranchers, and restaurant owners from the same tax incentive. For many of these businesses, it is more cost effective to throw away food than to donate it to charity.

The Good Samaritan Hunger Relief Tax Incentive Act would address this inequity by extending the special deduction to all business taxpayers and by increasing it to the fair market value of the donation. The hunger relief community believes that these changes will markedly increase food donations. One Hoosier food bank, Second Helpings of Indianapolis, estimates that this legislation will cause an additional 400,000 pounds of food to be donated to its coffers.

This bipartisan legislation, which enjoys the support of Republicans and Democrats alike, has been endorsed by a diverse set of organizations, including America's Second Harvest Food Banks, the Salvation Army, the American Farm Bureau Federation, the National Farmers Union, the National Restaurant Association, the Grocery Manufacturers of America, At-Sea Processors Association, California Emergency Foodlink, Council of Chain Restaurants, National Cattlemen's Beef Association, National Fisheries Association, and the National Milk Producers Federation.

Last year, this legislation unanimously passed the Senate as part of an agricultural tax amendment offered by Senator GRASSLEY to H.R. 8, the Death Tax Elimination Act. Although the measure was ultimately stripped from the underlying legislation, the vote indicated strong support for this legislation in the Senate.

I am hopeful that Congress will thoughtfully address the hunger problem in the U.S. by passing this bill into law.

By Mr. INOUYE:

S. 38. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

EXTEND TRAVEL ON MILITARY AIRCRAFT TO DISABLED MILITARY RETIREES

Mr. INOUYE. Mr. President today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ''thank you'' by supporting this legislation.

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

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

S. 38

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

''§ 1060b. Travel on military aircraft: certain disabled former members of the armed forces

''The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

''1060b. Travel on military aircraft: certain disabled former members of the armed forces.''.

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes; to the Committee on the Judiciary.

PUBLIC SAFETY MEDAL OF VALOR ACT

Mr. STEVENS. Mr. President, today I am honored to introduce the Public Safety Medal of Valor Act.

It is a bill intended to enhance recognition of an important segment of our public servants.

These are the men and women who engage in the law enforcement and public safety duties that benefit our communities every day.

I introduced this bill early in the 106th Congress, and the Senate passed it unanimously in May 1999.

The Senate Judiciary Committee deliberated on a similar piece of legislation, H.R. 46, and reported a version with amendments. Unfortunately, after the Senate passed H.R. 46 in the last days of the 106th Congress, there was not time for the House to act.

Today I submit the bill as introduced in the 106th Congress, and hope my colleagues will join me again in seeking its passage.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CRAPO):

S. 40. A bill entitled ''The Careers to Classrooms Act of 2001''; to the Committee on Health, Education, Labor, and Pensions.

CAREERS TO CLASSROOMS ACT OF 2001

Mrs. HUTCHISON. Mr. President, I have another bill to introduce. This is cosponsored by Senators FRIST and CRAPO. It is the Careers to Classrooms Act of 2001. Once again, this is a bill that has already been passed by Congress, but it has never made it into law. I am very hopeful that this President will sign a comprehensive reauthorization of the Elementary and Secondary Education Act, and included in that I hope will be Careers to Classrooms.

There is no question that many, if not most, of our States are facing huge teacher shortages. This is one of the most critical needs in our public schools today. It is most pressing in our inner-city and rural communities.

Ironically, the biggest enemy to hiring a sufficient number of teachers is our booming economy. A recent college graduate with a degree in math might expect to make $25,000 to $35,000 in a starting position as a high school math teacher. That same graduate could easily make twice that much in the private sector, especially in the red hot computer field. We have some issues we have to deal with—increasing teacher salaries, increasing teacher benefits—and we know that, but there is more we can do.

What we need in our public school systems in America is more creativity. What we want to do with our reauthorization of the Elementary and Secondary Education Act is to put more incentives for creativity in our public schools.

I am a total product of public education. I grew up in La Marque, TX, a small town of about 15,000 in Galveston County, and attended and graduated from its public schools. Then I attended the University of Texas and the University of Texas Law School. You will find no bigger advocate for public education than this Senator. I owe so much of what I am to the teachers who took the time to help me become the best that I could be.

Teachers are the backbone of our schools. You can design a state-of-the-art, fully computerized school connected to the Internet 24 hours a day with every modern textbook and piece of science equipment, but at the end of the day, if you do not have quality teachers, all of that equipment really does not mean that much.

Adding to the growth in the population of our public schools is an effort in many public school systems to hire more teachers to reduce class size. The approach I am putting forth today will ensure that more teachers are available, more can be hired, and that they are better teachers, qualified teachers, teachers with real world experience and knowledge that can be taken into the classroom.

Careers to Classrooms builds upon a tremendously successful Department of Defense program that takes experienced, qualified military service men and women and helps them transition into the classroom as teachers. That program is known as Troops to Teachers. it has placed over 4,000 qualified, certified teachers in our Nation's public schools, including over 600 in my home State of Texas.

The Troops to Teachers Program seeks out and helps place into schools members of the military with at least 10 years of military service and skills in high-need areas, such as math, science, computers, and languages. Typically, these experienced service personnel obtain their certification in a year or less utilizing one of the many different alternative certification programs now in place in over 40 States.

My provision essentially builds upon this proven model and extends it to the application in the context of civilian professionals and others with skills. What we want to do in Careers to Classrooms is take individuals with demonstrable skills in high-need areas and give them a chance to go into the teaching profession, especially midlevel professionals who would like to change careers and go into teaching.

The program would provide limited stipend assistance for individuals enrolled in State alternative certification programs, and those who agreed to teach in rural schools, schools with the most pressing teacher shortages and schools with the highest percentages of students from low-income families, would also get stipends to help them with this alternative certification to get them in the classroom faster than if they were going through the whole college course and curriculum that includes all of the teacher education courses.

High-need schools would also receive funding assistance to help compensate for the added teacher mentoring, training, and other costs associated with bringing-in prospective teachers under an alternative certification process.

Our legislation specifies priority disciplines in which we want to focus to recruit teachers. In particular, the proposal emphasizes sciences, math, computer literacy, and foreign languages. These are where our teacher shortages are most acute.

I particularly thank my colleague from Tennessee, Senator FRIST, who suggested adding outstanding recent college graduates to be eligible to participate in the Careers to Classrooms proposal. Senator FRIST correctly pointed out that in addition to encouraging midlevel career professionals, we want to have these young, top-flight college graduates who did not go through their college's education degree program but who do have the academic achievement and the mastery of these skills to be able to become excellent teachers.

I also thank Senator CRAPO of Idaho who has also been helpful in adding the provision that encourages individuals to go into our rural areas with this Careers-to-Classrooms-added incentive to become teaching professionals.

Our Nation's parents and teachers do not need more Federal control, they do not need more bureaucracy, they do not need more red tape. What they need is to be empowered with greater choices and options to find the education path that is best for them. We need to make those options available to them, to do so in a way that is new, that is innovative, that is flexible. Simply heaping more money on failed systems and programs has been exhaustively proven to lead to failure. The policies of the past have failed.

No. What we need to do is work with our new Secretary of Education, Rod Paige, who has made creativity the benchmark of his success in the public schools in Houston, TX. We need to go forward in a bipartisan Congress, with President Bush, to make public education the best education in our country.

Careers to Classrooms will put our qualified teachers in the classroom. It will give them the ability to be certified in an alternative certification program very quickly so that they will be a resource to our young people.

We want to encourage more people to go into the teaching profession because if we do not have good teachers, we are not going to have a successful country. We will not have young people able to go into our great economy and the opportunities that our economy would offer if they do not have the basic skills that are given by good teachers.

I hope this year Careers to Classrooms will become law. I hope we will see more and more of the qualified people in our country decide to take up the teaching profession and be mentors and role models and teachers to our young people.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. JEFFORDS, Ms. SNOWE, Mr. KYL, Mr. ROCKFELLER, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM, Mr. DASCHLE, Mr. KERRY, Mr. BINGAMAN, Mr. TORRICELLI, and Mrs. LINCOLN):

S. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit; to the Committee on Finance.

LEGISLATION TO PERMANENTLY EXTEND THE R&E TAX CREDIT

Mr. HATCH. Mr. President, I am very pleased to join with my friend Senator BAUCUS and many of our Finance Committee colleagues today in introducing legislation that would permanently extend the research and experimentation tax credit.

Over the past 10 years, our nation has experienced the longest and strongest peacetime period of economic expansion in our history. Over this past decade, the standard of living for all Americans has increased markedly while millions of new jobs have been created. At the same time, our federal budget outlook has been transformed from one of large and increasing deficits into the indefinite future to one of multitrillion dollar surpluses for at least the next ten years.

Much of the cause of this economic expansion that has so blessed the United States is due to a strong surge in our productivity rate. This increase in productivity has allowed the economy to continue to grow at a rapid pace without the increase in inflation that usually accompanies such growth.

The Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, and dozens of leading economists have all heralded the increase in our productivity as a key to our economic good times—and to their continuance. A major factor of this increase in productivity, Mr. President, is spending on research and development. This is what our bill today is all about.

An August 1999 study commissioned by the National Association of Manufacturers concluded that as much as two-thirds of productivity gains is due to technological advances. These advances, in turn, fuel economic growth. The standard model of economic growth argues that one-third of growth in private-sector output is attributable to advances in technology. In the manufacturing sector, as much as two-thirds of growth can be attributed to technological advances. Moreover, this contribution is expected to increase over the next decade.

It seems clear to me that if we want to keep our economy strong and growing, it is vital that we keep up and even increase these advances in technology. How do we do this? The answer is simple. Our nation must continue to invest in research and development, both at the public level, and especially in the private sector.

I believe the best way to ensure that private-sector investment in research and development continues at the healthy rate needed to fuel the productivity gains of the future is to permanently extend the current-law research and experimentation credit. This tax provision is a proven and a cost-effective incentive to increase private-sector R&D spending.

Studies have shown that the R&E tax credit significantly increases research and development expenditures. The marginal effect of one dollar of the R&E credit stimulates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra investment over the long-run.

Congress has recognized the vital role the R&E credit has played in spurring increased research spending by extending the credit ten times since its inception in 1981. For most of those years, Congress was never able to find the funds to pay for a permanent extension of the credit, due to budget constraints. Fortunately, Congress passed a five-year extension in 1999 that will keep the credit alive until 2004.

However, Mr. President, permanence is essential to the effectiveness of this credit. Research and development projects typically take a number of years and may even last longer than a decade. As our business leaders plan these projects, they need to know whether or not they can count on the R&E tax credit. The continual uncertainty surrounding the credit has induced businesses to allocate significantly less to research than they otherwise would if they were assured the tax credit would be available. This uncertainty undermines the entire purpose of the credit and has stifled its full potential for inducing research spending. For the government and the American people to maximize the return on their investment in U.S.-based research spending, this credit must be made permanent.

In the business community, the development of new products, technologies, medicines, and ideas can result in either success or failure. Investments carry a risk. The R&E tax credit helps ease the cost of incurring these risks. Whereas foreign nations heavily subsidize research with public dollars, the United States has typically relied less on direct public funds and more on private sector incentives. The R&E tax credit has the potential to be an even more effective incentive if it were made permanent.

I am aware that not every company that invests in research and development in the U.S. can take advantage of the regular R&E tax credit. As the credit's base period recedes and business cycles change, the current credit is out of reach for some companies that still incur significant research expenditures. To help solve this problem Congress enacted the Alternative Incremental Research Credit to help businesses that do not qualify for the R&E tax credit. To improve the effectiveness of this alternative credit, we have included a proposal to slightly increase each of its three incentive levels.

A permanent extension of this credit may seem costly in terms of lost revenue. However, when you consider the value that this investment will create for our economy, it is a bargain. In fact, one study estimates that a permanent R&E credit would result in our Gross Domestic Product increasing by $10 billion after five years and by $31 billion after 20 years.

Moreover, making the credit permanent will encourage more companies to locate their research activities within the United States. This will lead to more jobs and higher wages for U.S. workers. We must recognize that international competition is fierce. Many other countries offer significant enticements to prompt companies to move research activities within their borders. If we fail to ensure at least a level playing field, many companies will begin to consider moving their research activities abroad and we could lose thousands of precious high-paying jobs.

Findings from a study conducted by Coopers & Lybrand show that workers in every state will benefit from higher wages if the R&E tax credit is made permanent. Payroll increases as a result of gains in productivity stemming from the credit have been estimated to exceed $60 billion over the next 12 years. Furthermore, greater productivity from additional R&E will increase overall economic growth in every state in the Union.

My home state of Utah is a good example of how state economies benefit from the research tax credit. Utah is home to a large number of firms who invest a high percentage of their revenue on research and development.

For example, between Salt Lake City and Provo lies one of the world's biggest stretches of software and computer engineering firms. This area, which was named ''Software Valley'' by Business Week, is a significant example of one of a growing number of thriving high tech commercial regions outside California's Silicon Valley. Newsweek magazine included Utah among the top ten information technology centers in the world. The Utah Information Technologies Association estimates that Utah's IT industry consists of more than 2,500 IT vendor enterprises and more than 1,000 eBusiness enterprises, employing tens of thousands and bringing billions of dollars to Utah's economy.

In addition, Utah is home to about 700 biotechnology and biomedical firms that employ nearly 9,000 workers. Research and development are the reasons these companies exist. Not only do these companies need to continue conducting a high quality level of research, but this research feeds other industries and, ultimately, consumers. Just ask the patients who have benefitted from new drugs or therapies.

In all, Mr. President there are more than 80,000 employees working in Utah's thousands of technology based companies. Many other states have experienced similar growth in high technology businesses. Research and development is the lifeblood of these firms and hundreds of thousands like them throughout the nation.

During the ten times in the past 20 years that Congress has extended the R&E credit for a short time, the ostensible reason has been a lack of revenue. The excuse we give to constituents is that we didn't have the money to extend the bill permanently. Ironically, it costs at least as much in terms of lost revenue, in the long run, to enact short-term extensions as it does to extend it permanently.

With the latest projections of the on-budget surplus, for one year, for five

years, and for ten years, this excuse is gone. There is simply no valid reason that this credit should not be extended on a permanent basis.

Moreover, now is the time to extend the provision permanently. By making the research credit permanent now, we will send a strong signal to the business community that a new era of stronger support for research has dawned.

The timing could not be better because, as I mentioned, many research projects, especially those in pharmaceuticals and biotechnology, must be planned and budgeted for months and even years in advance. The more uncertain the long-term future of the research credit is, the smaller the potential of the credit to stimulate increased research. Simply knowing of the reliability of a permanent research credit will give a boost to the amount of research performed, even before the current credit expires in 2004.

A permanent R&E credit has wide support in both the Senate and the House. Last year, this body passed by a vote of 98–1 an amendment that would have permanently extended the credit. Unfortunately, all amendments were ultimately stripped from the underlying bill. The bill we are introducing today is identical to legislation introduced earlier this month by Representatives NANCY JOHNSON and ROBERT MATSUI. The identical bill in the 106th Congress was cosponsored by 164 other members of that body. Moreover, the permanent extension of the credit is a major provision in President Bush's tax cut plan, and was supported by both former President Clinton and by Al Gore.

In conclusion Mr. President, if we fail to make the R&E tax credit permanent, we are limiting the potential growth of our economy. How can we expect the American economy to hold its lead in the global economic race if we allow other countries to take the edge in innovation? Making the tax credit permanent will keep American business ahead of the pack. It will speed economic growth. New technology resulting from American research and development will continue to improve the standard of living for every person in the U.S. and also worldwide.

Simply put, the costs of not making the R&E tax credit permanent are far greater than the costs of making it permanent. As we begin the new millennium, we cannot afford to let the American economy slow down. Now is the time to send a strong message to our companies and to the world that America intends to retain its position as the world's foremost innovator.

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. 41

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

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 2. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

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

Mr. BAUCUS. Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, and my other colleagues on the Senate Finance Committee, to introduce this bill, which is so vitally important to American businesses competing in the global marketplace. I am particularly pleased that this bill includes as original cosponsors a majority of members of the Senate Finance Committee. This legislation is bipartisan and bicameral. A companion bill was introduced—on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressman ROBERT MATSUI.

Our nation is the world's undisputed leader in technological innovation, a position that would not be possible absent U.S. companies' commitment to research and development. Investment in research is an investment in our Nation's economic future, and it is appropriate that both the public and private sector share the costs involved, as we share in the benefits. The credit provided through the tax code for research and experimentation expenses provides a modest but critical incentive for companies to conduct their research in the United States, thus creating high-skilled, high-paying jobs for American workers.

The R&D credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Every dollar that the Federal government spends on the R&D tax credit is matched by another dollar of spending on research over the short run by private companies, and two dollars of spending over the long run. Our global competitors are well aware of the importance of providing incentives for research, and many provide more generous tax treatment for research and experimentation expenses than does the United States. As a result, Japanese and German spending on non-defense R&D as a percentage of GDP has grown, while U.S. spending has remained relatively flat since 1985. The R&D credit is instrumental in keeping research dollars in the United States and we must do all we can to make sure it remains an effective incentive by eliminating the on-again, off-again treatment.

The benefits of the credit, though certainly significant, have been limited over the years by the fact that the credit has been temporary. In addition to the numerous times that the credit has been allowed to lapse only to be extended retroactively, the 1996 extension left a 12-month gap during which the credit was not available. This unprecedented lapse sent a troubling signal to the U.S. companies and universities that have come to rely on the government's longstanding commitment to the credit. Let me be clear: companies are under-investing in research because there has been continued uncertainty about the credit's life. Much of the economic gains we enjoy now is the direct result of research, technology and innovation undertaken in prior decades. If current indicators are accurate in their warning of a slowdown in our economy, then now is appropriate time to send a strong signal to our research-intensive industries. We must demonstrate our long-term commitment to U.S.-based research by finally putting an end to all uncertainty and making the R&D credit permanent.

Much research and development takes years to mature. Companies must make their commitment to research projects often five or ten years into the future. The more uncertain the future of the credit, the fewer additional research projects will be started. If companies evaluating research projects cannot rely on the seamless continuation of the credit, then they are less likely to invest on research in this country and less likely to put money into cutting-edge technological innovation that is critical to keeping us in the forefront of global competition.

Our country is locked in a fierce battle for high-paying technological jobs in the global economy. As more nations succeed in creating educationally advanced workforces and join the U.S. as high-technology manufacturing centers, they become more attractive to companies trying to penetrate foreign markets. Multinational companies sometimes find that moving both manufacturing and basic research activities overseas is necessary if they are to remain competitive. The uncertainty of the R&D credit factors into their economic calculations, and makes keeping these jobs in the U.S. more difficult.

According to a 1998 study conducted by Coopers & Lybrand, making the R&D credit permanent will provide a substantial positive stimulus to investment, wage-growth, productivity, and overall economic activity for this country. Payroll increases from gains in productivity are estimated to total $64 over the period 1998 through 2010. In

the year 2010 alone, the payroll increase is estimated to total nearly $12 billion.

Also according to the study, Gross State Product, which is the basic measure of economic activity in a state, will rise overall by nearly $58 billion between 1998 and 2010 as a result of a permanent credit. Nearly three-fifths of this increase nationally is attributable to additional value added by industries that generally do not perform R&D themselves, but benefit from the R&D done by companies in other industries.

Gains in payroll and in Gross State Product are not limited to states regarded as centers for technological innovation. Although such regions of the country certainly benefit from the credit, each and every state will profit in some measurable way from the credit since all sectors of the economy—agriculture, mining, basic manufacturing, and high-tech services—benefit from productivity improvements resulting from the additional research and development caused by the credit.

My own state of Montana is an excellent example of this economic activity. According to the 1998 study, the total increase in payroll due to the R&D credit for the years 1998–2010 is estimated to be just over $250 million. Neither of these increases place Montana in the top tier of states benefitting from the credit. However, looking beyond these numbers, the impact of the credit in Montana is substantial. In 1995, 12 of every 1,000 private sector workers were employed directly by high-tech firms in Montana. Almost 400 establishments provided high-technology services, at an average wage of $34,500 per year. These jobs paid 77 percent more than the average private sector wage in 1995 of $19,500 per year. Many of these jobs would never have been created without the assistance of the R&D credit. And many more jobs in Montana are dependent upon the growth and stability of the high-tech sector. Although the cumulative numbers may not be high in comparison with other states, the impact of the R&D credit on Montana's economy is clear.

The American Bar Association Section of Taxation, the American Institute of Certified Public Accountants Tax Division, and the Tax Executives Institute urge making the credit permanent. In their view, uncertainty in the tax law breeds complexity. The constant need to extend the R&D credit and other Code provisions adds confusion to the law and, in many cases, undermines the policy reasons for enacting the incentives in the first place. This is so because the provisions are intended to encourage particular activities but uncertainty surrounding whether the provisions will be extended leaves taxpayers unable to plan for those activities. The on-again, off-again nature of these provisions, coupled in some cases with retroactive enactment (which often necessitates the filing of an amended return), contributes mightily to the complexity of the law.

Senator HATCH and I are not newcomers to this issue. We have jointly introduced bills to make the R&D credit permanent in previous Congresses only to end up with short-term extensions. Last year, we came close. During consideration of the bill to repeal the estate tax (H.R. 8) last July, the Senate voted 98 to 1 in favor of making the R&D tax credit permanent.

This year, we hope to be successful. The hard work we have done to bring our budget into balance is finally beginning to pay off, and the projected budget surpluses gives us an opportunity to think carefully about how best to allocate our resources. Making the R&D credit permanent is a wise use of budget dollars because of the direct positive impact on economic growth and productivity. This is not just a corporate issue. The real winners from past research investments have been the American people—in higher wage jobs, higher standards of living, and better health and lifestyle. This is a use of tax dollars that benefits all of us who are working to expand employment, increase wages and keep our Nation at the cutting edge of technological development. We were gratified to see that a permanent R&D credit was included in the tax plan on which President Bush campaigned, and I sincerely hope we can work together to finally make this year the year we fulfill our commitment to long-term, U.S.-based research.

I urge my colleagues to support this important piece of legislation.

By Mr. INOUYE:

S. 43. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

MILITARY COMMISSARY AND POST EXCHANGE PRIVILEGES FOR FORMER POWS

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our nation's enemies, I do feel this gesture is both meaningful and important to those concerned. It also serves as a reminder that our nation has not forgotten their sacrifices.

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. 43

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

''§ 1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

''(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

''(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

''(1) separated from active duty in the armed forces under honorable conditions; and

''(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

''(c) DEFINITIONS.—In this section:

''(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

''(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

''1064a. Use of commissary and exchange stores by certain disabled former prisoners of war.''.

By Mr. INOUYE:

S. 44. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, today I introduce an amendment that would change the existing law regarding the designated position and grade for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of these three branches of the military are only one-star general officer grades; this law would change the current grade to Major General in the Army and Air Force, and Rear Admiral (upper half) in the Navy.

Our military Chief Nurses have a tremendous responsibility—their scope of duties include peacetime and wartime health care doctrine, and standards and policy for all nursing personnel within their respective branches. They are responsible for thousands of Army, Navy, and Air Force officer and enlisted nursing personnel in the active, reserve, and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses, which would ensure that they have an appropriate voice in Defense Health Program executive management.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—bring their unique talents to the policy setting and decision-making process. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.

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

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

S. 44

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

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking ''brigadier general'' in the second sentence and inserting ''major general''.

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting ''rear admiral (upper half) in the case of an officer in the Nurse Corps or'' after ''for promotion to the grade of''; and

(2) by inserting ''in the case of an officer in the Medical Service Corps'' after ''rear admiral (lower half)''.

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking ''brigadier general'' in the second sentence and inserting ''major general''.

By Mr. INOUYE:

S. 45. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detailed or interred by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

PRISONER OF WAR MEDAL

Mr. INOUYE. Mr. President, all too often we find that our nation's civilian employees of our federal government who have been forcibly detained or interred by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner of war medal for such citizens.

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. 45

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

''CHAPTER 25—MISCELLANEOUS AWARDS

''Sec.

''2501. Prisoner-of-war medal: issue.

''§ 2501. Prisoner-of-war medal: issue

''(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of the willful misconduct of such person—

''(1) by an enemy government or its agents, or a hostile force, during a period of war; or

''(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances that the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

''(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

''(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

''(d) For a person to be eligible for issuance of a prisoner-of-war medal, the conduct of the person must have been honorable for the period of captivity that serves as the basis for the issuance.

''(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

''(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

''(g) In this section, the term 'period of war' has the meaning given that term in section 101(11) of title 38.''.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

''25. Miscellaneous Awards ..... 2501''.

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of that section.

By Mr. INOUYE:

S. 46. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 2001

Mr. INOUYE. Mr. President, today I rise to introduce the Clinical Social Workers' Recognition Act of 2001 to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V, United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by federal employees. The bill I am introducing corrects this problem.

It is a sad irony that federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on federal employees where clinical social workers are the only available providers of mental health care.

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

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

S. 46

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 ''Clinical Social Workers' Recognition Act of 2001''.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking ''and osteopathic practitioners'' and inserting ''osteopathic practitioners, and clinical social workers''; and

(2) in paragraph (3) by striking ''osteopathic practitioners'' and inserting ''osteopathic practitioners, clinical social workers,''.

By Mr. INOUYE:

S. 47. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

AIRPORT AND AIRWAY TRUST FUND LEGISLATION

Mr. INOUYE. Mr. President, I rise to introduce legislation that would exempt from the Airport and Airway Trust Fund excise taxes air transportation by helicopters of individuals and cargo for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance on the island of Kahoolawe.

The Kahoolawe Island Unexploded Ordnance Clearance and Environmental Restoration Project is authorized under Title X of the Fiscal Year 1994 Department of Defense Appropriations Act. The island of Kahoolawe is uninhabited, and it served as a bombing range for the Department of Defense until 1990. The Department of Defense is currently in the process of cleaning up and restoring Kahoolawe for its eventual return to the State of Hawaii by 2003.

The Airport and Airway Trust Fund excise taxes help support our nation's air traffic systems and airport infrastructures. However, there are no airports or landing zones on Kahoolawe that receive benefits from the Trust Fund. In addition, the taxes place an undue burden on the air transportation services provided to the Kahoolawe Clearance Project. Compared to a normal airline whose aircraft make fewer

trips per day over much longer distances, the services provided to the project are very frequent, with many trips over very short distances. I urge my colleagues to support this measure.

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

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

S. 47

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

SECTION 1. EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from sites for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance.''.

(b) CONFORMING AMENDMENT.—Section 4041(l) of the Internal Revenue Code of 1986 is amended by striking ''(f) or (g)'' and inserting ''(f), (g), or (i)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after June 30, 1997, and before August 1, 2005.

By Mr. INOUYE:

S. 48. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

TAX RELIEF FOR THE CONVERSION OF COOPERATIVE HOUSING CORPORATIONS INTO CONDOMINIUMS

Mr. INOUYE. Mr. President, today I rise to introduce legislation that would amend the Internal Revenue Code of 1986 to allow Cooperative Housing Corporations (Co-ops) to convert to condominium forms of ownership without any immediate tax consequences.

Under current law, a conversion from cooperative shareholding to condominium ownership is taxable at a corporate level as well as an individual level. The conversion is treated as a corporate liquidation, and therefore taxed accordingly. In addition, a capital gains tax is levied on any increase between the owner's basis in the co-op share pre-conversion and the market value of the condominium conversion because the owner is being taxed on a transaction that is nothing more than a change in the form of ownership. While the Internal Revenue Service concedes that there are no discernible advantages to society from the cooperative form of ownership, it does not view federal tax statutes as having the flexibility to allow co-ops to reorganize freely as condominiums.

In cooperative housing, real property ownership is vested in a corporation, with shares of stock for each apartment unit, that are sold to buyers. The corporation then issues a proprietary lease entitling the owner of the stock to the use of the unit in perpetuity. Because the investment is in the form of a share of stock, investors sometimes lose their entire investment as a result of debt incurred by the corporation in construction and development. In addition, due to the structure of a cooperative housing corporation, a prospective purchaser of shares in the corporation from an existing tenant-stockholder has difficulty obtaining a mortgage financing for the purchase. Furthermore, tenant-stockholders of cooperative housing also encounter difficulties in securing bank loans for the full value of their investment.

As a result, owners of cooperative housing are increasingly looking toward conversion to condominium ownership regimes. Condominium ownership permits each owner of a unit to directly own the unit itself, eliminating the cooperative housing dilemmas of corporate debt that supersedes the investment of cooperative housing share owners, and other financial concerns.

The legislation I introduce today will remove the penalty of double taxation of the conversion from the cooperative housing to condominium ownership, and will greatly benefit co-op owners across the nation. I urge my colleagues to consider and support this measure.

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

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

S. 48

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

SECTION 1. NONRECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Section 216(e) of the Internal Revenue Code of 1986 (relating to distributions by cooperative housing corporations) is amended to read as follows:

''(e) DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.—

''(1) IN GENERAL.—Except as provided in regulations—

''(A) no gain or loss shall be recognized to a cooperative housing corporation on the distribution by such corporation of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder's stock in such corporation, and

''(B) no gain or loss shall be recognized to a stockholder of such corporation on the transfer of such stockholder's stock in an exchange described in subparagraph (A).

''(2) BASIS.—The basis of a dwelling unit acquired in a distribution to which paragraph (1) applies shall be the same as the basis of the stock in the cooperative housing corporation for which it is exchanged, decreased in the amount of any money received by the taxpayer in such exchange.''.

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

By Mr. STEVENS:

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

ALASKA WETLANDS CONSERVATION ACT

Mr. STEVENS. Mr. President, I am proud to introduce a piece of legislation important to my State, the ''Alaska Wetlands Conservation Act.''

The legislation I submit today is identical to that introduced in the 106th Congress, except for a minor addition relative to silviculture. The new language simply clarifies the existing exemption for normal silviculture activities as applied to lands owned by Alaska Native corporations established pursuant to the Alaska Native Claims Settlement Act (''ANCSA'')

Congress in enacting the ANCSA intended and expected that Native timber holdings would be subject to harvesting. In fact, most Native timber lands are former national forest lands that, at the time of the enactment of ANCSA in 1971, were part of an ''established'' or ''ongoing'' silviculture program for that forest.

I hope my colleagues will support my State and its Native peoples as we pursue this legislation.

By Mr. INOUYE:

S. 51. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under care of a physician; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE

Mr. INOUYE. Mr. President, today, I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the full extent of their state practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition

under Medicare comprehensive outpatient rehabilitation facility program.

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

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

S. 51

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

SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking ''physician'' and inserting ''physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2002.

By Mr. INOUYE:

S. 52. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare Program; to the Committee on Finance.

CLINICAL SOCIAL WORKER ACT OF 2001

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. I believe it is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

S. 52

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

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2002.

By Mr. INOUYE:

S. 53. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

NURSING SCHOOL CLINICS ACT OF 2001

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 2001. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit entity primary care centers developed mainly in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 2001 recognizes the central role they can perform as care givers to the medically underserved.

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

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

S. 53

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

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (26), by striking ''and'' at the end;

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26), the following new paragraph:

''(27) nursing school clinic services (as defined in subsection (x)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(x) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.''.

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act

(42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 58. A bill to recognize the organization known as the National Academies of Practice; to be Committee on the Judiciary.

NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 2001

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinary body of health care practitioners.

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

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

S. 58

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

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (referred to in this Act as the ''corporation'') shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.

In this Act, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 15. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 59. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 2001

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our nation's clinical social workers to use their mental health expertise on behalf of the federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's best interest.

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

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

S. 59

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

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by striking ''psychiatrist or psychologist'' and inserting ''psychiatrist, psychologist, or clinical social worker''.

By Mr. INOUYE:

S. 61. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

RESTORATION OF MEMORIAL DAY TO MAY 30

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.

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. 61

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking ''the last Monday in May.'' and inserting ''May 30.''.

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking ''The last Monday in May'' and inserting ''May 30''; and

(2) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies for showing respect for American veterans of wars and other military conflicts; and''.

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking ''the last Monday in May;'' and inserting ''May 30;''.

By Mr. INOUYE:

S. 62. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

VETERAN'S HEALTH ADMINISTRATION ACT OF 2001

Mr. INOUYE. Mr. President, I introduce legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans Health Administration (VHA). The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a distressing situation regarding the care of our veterans has come to my attention: the recruiting and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions afflicting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder (PTSD) have received funding from the Congress in recent years.

Psychologists, as behavioral science experts, are essential to the successful implementation of these programs. Consequently, the high vacancy and turnover rates for psychologists in the VHA might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale that is not commensurate with private sector rates together with a low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management (OPM). Most new hires have no post-doctoral experience, and are hired immediately after a VHA internship. Recruitment, when successful, takes up to sic months or longer.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels for salary and professional advancement. Under the present system, psychologists cannot be recognized, or appropriately compensated, for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral and mental health disorders deserve better psychological care from more experienced professionals than they are now receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties that I have mentioned. Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems. The length of time needed to recruit psychologists could be shortened by eliminating the requirement for applicants to be rated by the OPM. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated by the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The addition of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our veterans and their families.

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

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

S. 62

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

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF PROFESSIONAL PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking ''who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary''.

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking ''Certified or'' and inserting ''Professional psychologists, certified or''; and

(2) in paragraph (2)(B), by striking ''Certified or'' and inserting ''Professional psychologists, certified or''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of professional psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.

By Mr. INOUYE:

S. 63. A bill for the relief of Donald C. Pence; to the Committee on Veterans' Affairs.

FOR THE RELIEF OF DONALD C. PENCE

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Donald C. Pence of Stanford, North Carolina, for compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence. It is rare that a federal agency admits a mistake. In this case, the Department of Veterans Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provisions authorizing the Department to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice, and I urge my colleagues to support this measure.

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. 63

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury

not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) LIMITATION ON FEES.—Not more than a total of 10 percent of the payment authorized by subsection (a) may be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, an to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

AMENDMENT TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Mr. INOUYE. Mr. President, on behalf of our nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would (1) establish a new social work training program; (2) ensure that social work students are eligible for support under the Health Careers Opportunity Program; (3) provide social work schools with eligibility for support under the Minority Centers of Excellence programs; (4) permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and (5) ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to people of this national, few federal programs exit to the provide opportunities for social work training in health and mental health care. This legislation would (1) provide funding for existing social work training programs or fellowships for individuals who plan to specialize in, practice, or teach social work; (2) help disadvantaged students earn graduate degrees in social work with a concentration in health or mental health; (3) provide new resources and opportunities in social work training for minorities; and (4) encourage schools of social work to expand programs in geriatrics.

Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to service our disadvantaged populations. I believe it is important to ensure that the special expertise social workers posses continue to be available to the citizens of this nation. This bill, by providing financial assistance to schools of social work and social work students, acknowledges the long historic and critical importance of the services provided by social work professionals. I believe it is time to provide them with the cognition they deserve.

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

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

S. 65

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

SECTION 1. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOL.—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293(g)(1)(A)) is amended by striking ''graduate program in behavioral or mental health'' and inserting ''graduate program in behavioral or mental health including a school offering graduate programs in clinical social work, or programs in social work''.

(b) SCHOLARSHIPS, GENERALLY.—Section 737(d)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(d)(1)(A)) is amended by striking ''mental health practice'' and inserting ''mental health practice including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

(c) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking ''offering graduate programs in behavioral and mental health'' and inserting ''offering graduate programs in behavioral and mental health including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 753(b)(1) of the Public Health Service Act (42 U.S.C. 294c(b)(1)) is amended by inserting ''schools offering degrees in social work,'' after ''teaching hospitals,''.

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

''SEC. 770. SOCIAL WORK TRAINING PROGRAM.

''(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

''(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

''(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

''(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

''(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

''(b) ACADEMIC ADMINISTRATIVE UNITS.—

''(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

''(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

''(A) establishing an academic administrative unit for programs in social work; or

''(B) substantially expanding the programs of such a unit.

''(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

''(d) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2002 through 2004.

''(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).''; and

(3) in section 770A (as so redesignated) by inserting ''other than section 770,'' after ''carrying out this subpart,''.

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting ''clinical social worker,'' after ''psychologist,'' each place it appears;

(2) in paragraph (4)(A), by striking ''and psychologists'' and inserting ''psychologists, and clinical social workers''; and

(3) in paragraph (5), by inserting ''clinical social work,'' after ''psychology,''.

By Mr. INOUYE:

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 2001

Mr. INOUYE. Mr. President, today I rise to introduce the Physical and Occupational Therapy Education Act of 2001. This legislation will increase educational opportunities for physical therapy and occupational therapy practitioners in order to meet the growing demand for the valuable services they provide in our communities.

Several factors contribute to the present need for federal support in this area. The rapid aging of our nation's population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapy services. This demand has exceeded our ability to educate an adequate number of physical therapists and occupational therapists.

In addition, technological advances are allowing injured and disabled individuals to survive conditions that would have proven fatal in past years.

An inadequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H–1B visa holders). The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H–1B visa holders in the United States, second only to computer specialists.

In addition to the shortage of practitioners, a shortage of faculty impedes the expansion of established education programs. The critical shortage of doctoral-prepared occupational therapists and physical therapists has resulted in a depleted pool of potential faculty. This bill would assist in the development of qualified faculty by giving preference to grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. The investment we make will help reduce America's dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens.

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

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

S. 66

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 ''Physical Therapy and Occupational Therapy Education Act of 2001''.

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended by inserting after section 769, the following:

''SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

''(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

''(c) PEER REVIEW.—Each peer review group under section 799(f) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

''(d) REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Secretary shall prepare a report that—

''(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

''(B) specifies the identity of entities receiving the grants or contracts; and

''(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

''(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2003, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2002 through 2005.''.

By Mr. INOUYE:

S. 67. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PUBLIC HEALTH SERVICE ACT OF 2001

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in reaching out to the nation's medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

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

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

S. 67

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

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended by adding at the end the following:

''SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

''(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

''(b) ELIGIBLE ENTITIES.—

''(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

''(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

''(B) will provide services in a medically underserved population during the period of such grant;

''(C) will comply with the provisions of subsection (c); and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

''(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

''(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

''(C) will not use in excess of 10 percent of amounts provided under this section to pay

for the administrative costs of any fellowship programs established with such funds; and

''(D) will provide any other information or assurance as the Secretary determines appropriate.

''(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

''(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically unserved populations'.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2002 through 2004.''.

By Mr. INOUYE:

S. 68. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusions of behavioral science expertise into our community of public health, providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

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

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

S. 68

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

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting '', or any public or nonprofit school that offers a graduate program in professional psychology'' after ''veterinary medicine'';

(2) in subsection (b)(4), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree''; and

(3) in subsection (c)(1), by inserting '', or schools that offer graduate programs in professional psychology'' after ''veterinary medicine''.

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree'';

(2) in subsection (c), in the matter preceding paragraph (1), by inserting '', or at a school that offers a graduate program in professional psychology'' after ''veterinary medicine''; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking ''or podiatry'' and inserting ''podiatry, or professional psychology''; and

(B) in paragraph (4), by striking ''or podiatric medicine'' and inserting ''podiatric medicine, or professional psychology''.

SEC. 2. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking ''clinical'' and inserting ''professional''.

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking ''clinical'' and inserting ''professional''.

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (42 U.S.C. 295p(1)(B)) is amended by striking ''clinical'' each place it appears and inserting ''professional''.

By Mr. INOUYE:

S. 69. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RURAL PREVENTIVE HEALTH CARE TRAINING ACT OF 2001

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 2001, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in undeserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine (IOM) report entitled, ''Reducing Risks for Mental Disorders; Frontiers for Preventive Intervention Research,'' highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through such training, rural health care providers can build a strong educational foundation from the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 2001 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 69

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 ''Rural Preventive Health Care Training Act of 2001''.

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

''(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

''(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

''(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

''(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

''(3) to provide training in appropriate research and program evaluation skills in rural communities;

''(4) to create and implement innovative programs and curricula with a specific prevention component; and

''(5) for other purposes as the Secretary determines to be appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2002 through 2004.''.

By Mr. INOUYE:

S. 70. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL CENTER FOR SOCIAL WORK RESEARCH

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information about basic and clinical social work research, and training, with emphasis on service to underserved and rural populations.

While the federal government provides funding for various social work research activities through the National Institutes of Health and other federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating their work.

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

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

S. 70

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 ''National Center for Social Work Research Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

''(G) The National Center for Social Work Research.''.

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

''Subpart 6—National Center for Social Work Research

"SEC. 485G. PURPOSE OF CENTER.

''The general purpose of the National Center for Social Work Research (referred to in this subpart as the 'Center') is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

''(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

''(2) provide policymakers with empirically-based research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

"SEC. 485H. SPECIFIC AUTHORITIES.

''(a) IN GENERAL.—To carry out the purpose described in section 485G, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

''(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

''(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

"SEC. 485I. ADVISORY COUNCIL.

''(a) DUTIES.—

''(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

''(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment, or maintenance of facilities for the Center.

''(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

''(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

''(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

''(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

''(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country and, with the approval of the Director of the Center, make such information available through appropriate publications; and

''(C) may appoint subcommittees and convene workshops and conferences.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

''(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

''(A) the Secretary of Health and Human Services, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the

Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designees of such officers); and

''(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

''(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

''(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

''(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

''(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS–18 of the General Schedule.

''(c) TERMS.—

''(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

''(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

''(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

''(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

''(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

''(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

''(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485J—

''(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

''(2) comments on the progress of the Center in meeting its objectives; and

''(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

''SEC. 485J. BIENNIAL REPORT.

''The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485I(g).

''SEC. 485K. QUARTERLY REPORT.

''The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.''.

Mr. CRAIG:

S. 71. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 2001

Mr. CRAIG. Mr. President, I rise to introduce a bill, and I send it to the desk.

Mr. President, the bill I introduce is the Hydroelectric Licensing Process Improvement Act of 2001. As its title suggests, the purpose of the bill is to improve the process by which non-federal hydroelectric projects are licensed by the Federal Energy Regulatory Commission.

I introduced an identical bill early in the 106th Congress. Several hearings were held on the bill in both the Senate and House. I introduce this bill today with the full understanding that the bill may undergo some changes as a result of collaboration with my colleague Senator BINGAMAN and others on the Senate Energy and Natural Resources Committee. At the end of the last Congress, Senator BINGAMAN offered to work with me in a bipartisan fashion to successfully report this bill out of Committee in the 107th Congress. I enthusiastically look forward to working with him to ensure that this bill gets the necessary attention to move smoothly and with appropriate speed through the Committee process.

Mr. President, hydropower represents ten percent of the energy produced in the United States, and approximately 85% of all renewable energy generation. This is a significant portion of our nation's electricity, produced without air pollution or greenhouse gas emissions, and it is accomplished at relatively low cost.

The Commission for many years since its creation in 1920, controlled our nation's water power potential with uncompromising authority. However, over the years, a number of environmental statutes, amendments to the Federal Power Act, Commission regulations, licensing and policy decisions, and several critical court decisions, has made the Commission's licensing process extremely costly, time consuming, and, at times, arbitrary. Indeed, the current Commission licensing program is burdened with mixed mandates and redundant bureaucracy and prone to gridlock and litigation.

Under current law, several federal agencies are required to set conditions for licenses without regard to the effects those conditions have on project economics, energy benefits, impacts on greenhouse gas emissions and values protected by other statutes and regulations. Far too often we have agencies fighting agencies and issuing inconsistent demands.

The consequent delays in processing hydropower applications result in significant business costs and lost capacity. For example, according to a September 1997 study of the U.S. Department of Energy, since 1987, of 52 peaking projects relicensed by the Commission, four projects increased capacity, and 48 decreased capacity. In simple terms, those 48 projects became less productive as a result of the relicensing process at the Commission than they were prior to relicensing. Ninety-two percent of the peaking projects since 1987 lost capacity.

In addition, faced with the uncertainties currently plaguing the relicensing process, some existing licensees are contemplating abandonment of their projects. This is of concern to the nation because two-thirds of all non-federal hydropower capacity is up for relicensing in the next fifteen years. This concern has been exacerbated in the last several months by the catastrophic energy supply crisis experienced by California and the rest of the West. By the year 2010, 220 projects will be subject to the relicensing process.

Publicly owned hydropower projects constitute nearly 50% of the total capacity that will be up for renewal. The problems resulting in lost capacity, coupled with the momentous changes occurring in the electricity industry and the increasing need for emission free sources of power, all underscore

the need for Congressional action to reform hydroelectric licensing.

Moreover, the loss of a hydropower project means more than the loss of clean, efficient, renewable electric power. Hydropower projects provide drinking water, flood control, fish and wildlife habitat, irrigation, transportation, environmental enhancement funding and recreation benefits. Also, due to its unique load-following capability, peaking capacity and voltage stability attributes, hydropower plays a critical role in maintaining our nation's reliable electric service.

My bill will help remedy the inefficient and complex Commission licensing process by ensuring that federal agencies involved in the process act in a timely and accountable manner.

My bill does not change or modify any existing environmental laws, nor remove regulatory authority from various agencies. It does not call for the repeal of mandatory conditioning authority of appropriate federal agencies. Rather, it requires participating agencies to consider, and be accountable for, the full effects of their actions before imposing mandatory conditions on a Commission issued license.

It is clear to me and many of my colleagues here in the Senate that hydropower is at risk. Clearly, one of the most important tasks for energy policymakers in the 21st Century is to develop an energy strategy that will ensure an adequate supply of reasonably priced, reliable energy to all American consumers in an environmentally responsible manner. The relicensing of non-federal hydropower can and should continue be an important and viable element in this strategy.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis appear in the RECORD.

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

S. 71

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 ''Hydroelectric Licensing Process Improvement Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) hydroelectric power is an irreplaceable source of clean, economic, renewable energy with the unique capability of supporting reliable electric service while maintaining environmental quality;

(2) hydroelectric power is the leading renewable energy resource of the United States;

(3) hydroelectric power projects provide multiple benefits to the United States, including recreation, irrigation, flood control, water supply, and fish and wildlife benefits;

(4) in the next 15 years, the bulk of all non-Federal hydroelectric power capacity in the United States is due to be relicensed by the Federal Energy Regulatory Commission;

(5) the process of licensing hydroelectric projects by the Commission—

(A) does not produce optimal decisions, because the agencies that participate in the process are not required to consider the full effects of their mandatory and recommended conditions on a license;

(B) is inefficient, in part because agencies do not always submit their mandatory and recommended conditions by a time certain;

(C) is burdened by uncoordinated environmental reviews and duplicative permitting authority; and

(D) is burdensome for all participants and too often results in litigation; and

(6) while the alternative licensing procedures available to applicants for hydroelectric project licenses provide important opportunities for the collaborative resolution of many of the issues in hydroelectric project licensing, those procedures are not appropriate in every case and cannot substitute for statutory reforms of the hydroelectric licensing process.

SEC. 3. PURPOSE.

The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power by—

(1) requiring agencies to consider the full effects of their mandatory and recommended conditions on a hydroelectric power license and to document the consideration of a broad range of factors;

(2) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license; and

(3) making other improvements in the licensing process.

SEC. 4. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

(a) IN GENERAL.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding at the end the following:

''SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

''(a) DEFINITIONS.—In this section:

''(1) CONDITION.—The term 'condition' means—

''(A) a condition to a license for a project on a Federal reservation determined by a consulting agency for the purpose of the first proviso of section 4(e); and

''(B) a prescription relating to the construction, maintenance, or operation of a fishway determined by a consulting agency for the purpose of the first sentence of section 18.

''(2) CONSULTING AGENCY.—The term 'consulting agency' means—

''(A) in relation to a condition described in paragraph (1)(A), the Federal agency with responsibility for supervising the reservation; and

''(B) in relation to a condition described in paragraph (1)(B), the Secretary of the Interior or the Secretary of Commerce, as appropriate.

''(b) FACTORS TO BE CONSIDERED.—

''(1) IN GENERAL.—In determining a condition, a consulting agency shall take into consideration—

''(A) the impacts of the condition on—

''(i) economic and power values;

''(ii) electric generation capacity and system reliability;

''(iii) air quality (including consideration of the impacts on greenhouse gas emissions); and

''(iv) drinking, flood control, irrigation, navigation, or recreation water supply;

''(B) compatibility with other conditions to be included in the license, including mandatory conditions of other agencies, when available; and

''(C) means to ensure that the condition addresses only direct project environmental impacts, and does so at the lowest project cost.

''(2) DOCUMENTATION.—

''(A) IN GENERAL.—In the course of the consideration of factors under paragraph (1) and before any review under subsection (e), a consulting agency shall create written documentation detailing, among other pertinent matters, all proposals made, comments received, facts considered, and analyses made regarding each of those factors sufficient to demonstrate that each of the factors was given full consideration in determining the condition to be submitted to the Commission.

''(B) SUBMISSION TO THE COMMISSION.—A consulting agency shall include the documentation under subparagraph (A) in its submission of a condition to the Commission.

''(c) SCIENTIFIC REVIEW.—

''(1) IN GENERAL.—Each condition determined by a consulting agency shall be subjected to appropriately substantiated scientific review.

''(2) DATA.—For the purpose of paragraph (1), a condition shall be considered to have been subjected to appropriately substantiated scientific review if the review—

''(A) was based on current empirical data or field-tested data; and

''(B) was subjected to peer review.

''(d) RELATIONSHIP TO IMPACTS ON FEDERAL RESERVATION.—In the case of a condition for the purpose of the first proviso of section 4(e), each condition determined by a consulting agency shall be directly and reasonably related to the impacts of the project within the Federal reservation.

''(e) ADMINISTRATIVE REVIEW.—

''(1) OPPORTUNITY FOR REVIEW.—Before submitting to the Commission a proposed condition, and at least 90 days before a license applicant is required to file a license application with the Commission, a consulting agency shall provide the proposed condition to the license applicant and offer the license applicant an opportunity to obtain expedited review before an administrative law judge or other independent reviewing body of—

''(A) the reasonableness of the proposed condition in light of the effect that implementation of the condition will have on the energy and economic values of a project; and

''(B) compliance by the consulting agency with the requirements of this section, including the requirement to consider the factors described in subsection (b)(1).

''(2) COMPLETION OF REVIEW.—

''(A) IN GENERAL.—A review under paragraph (1) shall be completed not more than 180 days after the license applicant notifies the consulting agency of the request for review.

''(B) FAILURE TO MAKE TIMELY COMPLETION OF REVIEW.—If review of a proposed condition is not completed within the time specified by subparagraph (A), the Commission may treat a condition submitted by the consulting agency as a recommendation is treated under section 10(j).

''(3) REMAND.—If the administrative law judge or reviewing body finds that a proposed condition is unreasonable or that the consulting agency failed to comply with any of the requirements of this section, the administrative law judge or reviewing body shall—

''(A) render a decision that—

''(i) explains the reasons for a finding that the condition is unreasonable and may make recommendations that the administrative law judge or reviewing body may have for the formulation of a condition that would not be found unreasonable; or

''(ii) explains the reasons for a finding that a requirement was not met and may describe any action that the consulting agency should take to meet the requirement; and

''(B) remand the matter to the consulting agency for further action.

''(4) SUBMISSION TO THE COMMISSION.—Following administrative review under this subsection, a consulting agency shall—

''(A) take such action as is necessary to—

''(i) withdraw the condition;

''(ii) formulate a condition that follows the recommendation of the administrative law judge or reviewing body; or

''(iii) otherwise comply with this section; and

''(B) include with its submission to the Commission of a proposed condition—

''(i) the record on administrative review; and

''(ii) documentation of any action taken following administrative review.

''(f) SUBMISSION OF FINAL CONDITION.—

''(1) IN GENERAL.—After an applicant files with the Commission an application for a license, the Commission shall set a date by which a consulting agency shall submit to the Commission a final condition.

''(2) LIMITATION.—Except as provided in paragraph (3), the date for submission of a final condition shall be not later than 1 year after the date on which the Commission gives the consulting agency notice that a license application is ready for environmental review.

''(3) DEFAULT.—If a consulting agency does not submit a final condition to a license by the date set under paragraph (1)—

''(A) the consulting agency shall not thereafter have authority to recommend or establish a condition to the license; and

''(B) the Commission may, but shall not be required to, recommend or establish an appropriate condition to the license that—

''(i) furthers the interest sought to be protected by the provision of law that authorizes the consulting agency to propose or establish a condition to the license; and

''(ii) conforms to the requirements of this Act.

''(4) EXTENSION.—The Commission may make 1 extension, of not more than 30 days, of a deadline set under paragraph (1).

''(g) ANALYSIS BY THE COMMISSION.—

''(1) ECONOMIC ANALYSIS.—The Commission shall conduct an economic analysis of each condition submitted by a consulting agency to determine whether the condition would render the project uneconomic.

''(2) CONSISTENCY WITH THIS SECTION.—In exercising authority under section 10(j)(2), the Commission shall consider whether any recommendation submitted under section 10(j)(1) is consistent with the purposes and requirements of subsections (b) and (c) of this section.

''(h) COMMISSION DETERMINATION ON EFFECT OF CONDITIONS.—When requested by a license applicant in a request for rehearing, the Commission shall make a written determination on whether a condition submitted by a consulting agency—

''(1) is in the public interest, as measured by the impact of the condition on the factors described in subsection (b)(1);

''(2) was subjected to scientific review in accordance with subsection (c);

''(3) relates to direct project impacts within the reservation, in the case of a condition for the first proviso of section 4(e);

''(4) is reasonable;

''(5) is supported by substantial evidence; and

''(6) is consistent with this Act and other terms and conditions to be included in the license.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 4.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(A) in the first proviso of the first sentence by inserting after ''conditions'' the following: '', determined in accordance with section 32,''; and

(B) in the last sentence, by striking the period and inserting ''(including consideration of the impacts on greenhouse gas emissions)''.

(2) SECTION 18.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended in the first sentence by striking ''prescribed by the Secretary of Commerce'' and inserting ''prescribed, in accordance with section 32, by the Secretary of the Interior or the Secretary of Commerce, as appropriate''.

SEC. 5. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

Part I of the Federal Power Act (16 U.S.C. 791a et seq.) (as amended by section 4) is amended by adding at the end the following:

''SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

''(a) LEAD AGENCY RESPONSIBILITY.—The Commission, as the lead agency for environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects licensed under this part, shall conduct a single consolidated environmental review—

''(1) for each such project; or

''(2) if appropriate, for multiple projects located in the same area

''(b) CONSULTING AGENCIES.—In connection with the formulation of a condition in accordance with section 32, a consulting agency shall not perform any environmental review in addition to any environmental review performed by the Commission in connection with the action to which the condition relates.

''(c) DEADLINES.—

''(1) IN GENERAL.—The Commission shall set a deadline for the submission of comments by Federal, State, and local government agencies in connection with the preparation of any environmental impact statement or environmental assessment required for a project.

''(2) CONSIDERATIONS.—In setting a deadline under paragraph (1), the Commission shall take into consideration—

''(A) the need of the license applicant for a prompt and reasonable decision;

''(B) the resources of interested Federal, State, and local government agencies; and

''(C) applicable statutory requirements.''.

SEC. 6. STUDY OF SMALL HYDROELECTRIC PROJECTS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects.

(b) DEFINITION OF SMALL HYDROELECTRIC PROJECT.—The Commission may by regulation define the term ''small hydroelectric project'' for the purpose of subsection (a), except that the term shall include at a minimum a hydroelectric project that has a generating capacity of 5 megawatts or less.

SECTION-BY-SECTION ANALYSIS OF THE HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 2001

Section 1: Short Title. The legislation may be referred to as the Hydroelectric Licensing Process Improvement Act of 2001.

Section 2: Findings. Hydropower is a vital renewable energy resource, providing clean, economic and reliable electricity. Hydropower projects also provide recreation, irrigation, flood control, water supply and fish and wildlife benefits. The bulk of all non-Federal hydro projects are coming up for relicensing by the Federal Energy Regulatory Commission (FERC) in the next 15 years. The hydroelectric licensing process does not produce optimal decisions, because agencies participating in the process fail to consider the full effects of mandatory and recommended license conditions. The process is inefficient, in part because of delays in the submission of mandatory and recommended conditions, and environmental reviews are uncoordinated. As a result, the process is burdensome for all participants, and prone to litigation. While alternative licensing procedures are available and can lead to the collaborative resolution of issues in some relicensings, they are not appropriate in all circumstances, and are not a substitute for needed statutory reform.

Section 3: Purpose. The purpose of the legislation is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power. This purpose will be achieved through statutory reforms to improve the licensing process by (1) requiring agencies to consider key factors, and document their consideration of those factors, when developing mandatory and recommended license conditions; (2) requiring FERC to set deadlines for the submission of agency conditions; and (3) making other process improvements.

Section 4(a): Process for Consideration by Federal Agencies of Conditions to Licenses. The legislation would create a new section 32 of the Federal Power Act (FPA), specifying the process for consideration by Federal agencies of conditions to hydroelectric project licenses.

Definitions: New FPA section 32(a) would define ''condition'' and ''consulting agency'' as used in section 32. ''Condition'' refers to conditions for projects on Federal reservations determined under FPA section 4(e) and fishway prescriptions determined under FPA section 18. ''Consulting agencies'' are the agencies with authority to determine conditions under sections 4(e) and 18.

Factors to be Considered: New FPA section 32(b) would require consulting agencies to consider the impact of conditions on: economic and power values; electric generating capacity and system reliability; air quality, including impacts on greenhouse gas emissions; and drinking, flood control, irrigation, navigation or recreation water supply. In addition, agencies would be required to consider the compatibility of their conditions with other conditions that will be included in the license, including, if available, mandatory conditions of other agencies. Further, agencies would be required to consider means to ensure that conditions address only direct project environmental impacts, and do so at the lowest cost to the project. Agencies must create written documentation of their consideration of these issues, and submit the documentation to FERC along with the condition.

Scientific Review: New FPA section 32(c) would require that each condition be subjected to appropriately substantiated scientific review based on current empirical data or field-tested data and subjected to peer review.

Relationship to Impacts on Federal Reservation: New FPA section 32(d) would require that conditions determined under FPA section 4(e) be directly and reasonably related to the impacts of the project within the Federal reservation.

Administrative Review: New FPA section 32(e) would require that proposed conditions be provided to applicants at least 90 days prior to the deadline for filing a license application. Prior to submitting proposed conditions to the Commission, consulting agencies must offer the license applicant an opportunity to obtain administrative review of the condition before an administrative law

judge or other independent reviewing body. The administrative review would consider the reasonableness of the proposed condition, in light of its effects on the energy and economic values of the project, and the agency's compliance with the requirements imposed in section 32. Administrative review must be completed within 180 days of a request for review from the applicant. If it is not, the Commission is authorized to treat the condition as a recommendation is treated under FPA section 10(j). If an agency reviewing body decides that a proposed condition is unreasonable or that the requirements of the new FPA section 32 are not met, it must explain its decision and remand the matter to the agency for further action. The reviewing body may recommend curative actions. Finally, the consulting agency, following administrative review, would be required to either withdraw the condition, formulate a condition that follows the recommendations of the administrative review body, or otherwise comply with section 32. When the condition is submitted to the Commission, the consulting agency would be required to include any record on administrative review and documentation of any action taken after administrative review.

Submission of Final Condition: After a license application is filed, new FPA section 32(f) would require FERC to establish a deadline for the submission to the Commission of final conditions. The deadline would be no later than one year after the date on which the Commission gives notice that the license application is ready for environmental review (subject to one 30 day extension by FERC). If the consulting agency fails to comply with the deadline, the agency would not have authority to recommend or establish a condition. The legislative language restates FERC's current authority under its regulations to propose or establish license conditions in place of the defaulting agency in such a situation.

Analysis by the Commission: New section 32(g) would require FERC to conduct an economic analysis of conditions to determine whether a condition would render the project uneconomic. In addition, in exercising its authority under section 10(j) to reject a recommendation that is inconsistent with the Federal Power Act, the Commission would be required to consider whether 10(j) recommendations are consistent with the provisions of sections 32 (b) and (c) (consideration of factors and scientific review).

Commission Determination on Effect of Conditions: New section 32(h) would require the Commission, if requested on rehearing by a license applicant, to make a written determination on whether a condition (1) is in the public interest (measured by the impact of the condition on the energy, economic and resource considerations enumerated in section 32(b); (2) was subject to scientific review as required in section 32(c); (3) relates to direct project impacts within the reservation (if applicable); (4) is reasonable; (5) is supported by substantial evidence; and (6) is consistent with the Federal Power Act and other license terms and conditions.

Section 4(b): Conforming and Technical Amendments: This section makes certain technical changes in FPA sections 4(e) and 18 to reflect the new requirements of section 32.

Section 5: Coordinated Environmental Review Process: A new section 33 would be added to the Federal Power Act to confirm the FERC's responsibilities as the lead agency for environmental reviews of hydroelectric projects under the National Environmental Policy Act.

Lead Agency Responsibility: New FPA section 33(a) would confirm FERC's responsibility to conduct a single, consolidated environmental review for each project or, if appropriate, for multiple projects located in the same area. This language assures that the legislation does not preclude a single environmental review being done for multiple projects.

Consulting Agencies: New FPA section 33(b) would impose a limitation on consulting agencies seeking to perform a separate environmental review for conditions submitted in accordance with new FPA section 32. This language is designed to avert agency reviews that would duplicate the consolidated environmental review conducted by FERC.

Deadlines: New FPA section 33(c) would require the Commission to set deadlines that provide opportunity for input on environmental reviews by federal, state and local agencies.

Section 6: Study of Small Hydroelectric Projects. Within 18 months of the date of enactment, FERC must complete a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects. The study would be submitted to the Senate Energy and Natural Resources and House Commerce Committees. The term ''small hydroelectric project'' would be defined by FERC, and shall include projects with generating capacity of 5 megawatts or less.

Mr. BINGAMAN:

S. 72. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

EXPANDING ESPC AUTHORITY

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, to amend the National Energy Conservation Policy Act of 1986. This legislation, the ''Energy Efficient Cost Savings Improvement Act of 2001,'' which I previously introduced on December 14, 2000 as S. 3277 and was accepted by unanimous consent, will improve the current law by enhancing and extending the authority relating to energy savings performance contracts of the Federal Government. The benefit to the taxpayer will be not only the realization of greater cost savings as they pertain to older, inefficient Federal buildings but, more importantly, the reduction in the waste of monies spent trying to improve these buildings when other, more cost effective alternatives are available.

The National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992, established a mandate for energy savings in Federal buildings and facilities. Aggressive energy conservation goals were subsequently established by Executive Order 12902, stating that, by 2005, Federal agencies must reduce their energy consumption in their buildings by 30 percent per square foot when compared to 1985 levels. Executive Order 13123 increased this goal to 35 percent by 2010.

To help attain these objectives, the Energy Policy Act of 1992 created Energy Savings Performance Contracting (ESPC), which offered a means of achieving this energy reduction goal at no capital cost to the government. That's right—no capital cost to the government, since ESPC is an alternative to the traditional method of Federal appropriations to finance these types of improvements in Federal buildings. Under the ESPC authority, Federal agencies contract with energy service companies (ESCO), which pay all the up-front costs. These costs relate to evaluation, design, financing, acquisition, installation, and maintenance of energy efficient equipment; altered operation and maintenance improvements; and technical services. The ESCO guarantees a fixed amount of energy cost savings throughout the life of the contract and is paid directly from those cost savings. Agencies retain the remainder of the cost savings for themselves and, at the end of the contract, ownership of all property, along with the additional cost savings, reverts to the Federal government. Currently, contracts may range up to 25 years. Over the entire contract period, Federal monies are neither required nor appropriated for the improvements.

But, as innovative as the ESPC alternative may be, there is one area in which it falls short—and that is, how to avoid wasting valuable funds improving energy efficiency in a building that has long since passed its useful life. How do you justify energy conservation measures in buildings that are in constant need of maintenance or repair? Facilities that, no matter how much money is invested for renovation, will never meet existing building code requirements? You may save money by improving energy efficiency, but then turn around and reinvest even larger amounts in operating and maintaining a very old facility. Somewhere there has to be a point where we decide there must be other alternatives—and that is exactly what my legislation offers.

Mr. President, the most important element of my legislation is in the way it proposes to fund the construction of replacement Federal facilities. The legislation builds upon the existing Energy Savings Performance Contracting and takes it one logical step further—to include savings anticipated from operation and maintenance efficiencies of a new replacement Federal building. Perhaps the easiest way to explain the benefits of this change is by citing an example. In my home state of New Mexico, the Department of Energy Albuquerque Operations office resides in a complex of buildings constructed originally as Army barracks during the Korean War. Although these facilities have been renovated and modified throughout the years, they remain energy inefficient and require high maintenance and operation costs when compared to more contemporary buildings. What's more, over the next seven years, the Operations office will institute additional modifications to meet compliance requirements for seismic, energy savings, and other facility infrastructure concerns (maintenance, environmental, safety and health, etc.) at a cost of $34.2 million. Even with these modifications, we end up with a

modernized 50-year old building that will continue to require expensive maintenance dollars. The estimate to replace the office complex with a new facility, by the way, is $35.3 million. While Congress cannot afford to appropriate funds to build a new facility, we're willing to spend—no, we're forced to waste—almost as much in maintaining an old one.

As requested by the National Defense Authorization Act for FY2000, the Department of Energy conducted a feasibility study for replacing the Albuquerque Operations office using an ESPC. The results of the study are enlightening, for it demonstrated that by using anticipated energy, operations, and maintenance efficiencies of a new replacement building over the old one, the cost savings alone pay for the new facility. What's more, the analysis forecasts that after the annual ESPC loan payment is made to the contractor, there is a $1 million per year surplus. Over a 25-year contract, the savings to the taxpayer is $25 million.

Finally, Mr. President, I want to draw your attention to the broader implications that this legislation has for Federal agencies and taxpayers alike. The application of authority created by this legislation in the replacement of other Federal buildings could result in billions of dollars of avoided waste. Simply by considering operation and maintenance cost savings, we would reap a double benefit of newer facilities and much needed improvements to the Federal infrastructure at a fraction of the cost. And, since ESCOs typically use local companies to provide construction services, this type of program would have a very beneficial effect on local economies.

There is certainly enough work within the Federal government to move forward on this ESPC legislation. To this end, I urge my colleagues to support the bill.

I ask for 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. 72

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 ''Energy Efficient Cost Savings Improvement Act of 2001''.

SEC. 2. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO ENERGY SAVINGS PERFORMANCE CONTRACTS OF THE FEDERAL GOVERNMENT.

(a) ENERGY SAVINGS THROUGH CONSTRUCTION OF REPLACEMENT FACILITIES.—Section 804 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(2)''; and

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

''(B) The term also means a reduction in the cost of energy, from such a base cost, that would otherwise be utilized in a federally owned building or buildings or other federally owned facilities by reason of the construction and operation of one or more buildings or facilities to replace such federally owned building or buildings or other federally owned facilities.''; and

(2) in paragraph (3), by inserting after the first sentence the following new sentence: ''The terms also mean a contract that provides for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.''.

(b) COST SAVINGS FROM OPERATION AND MAINTENANCE EFFICIENCIES IN REPLACEMENT FACILITIES.—Section 801(a) of that Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.''.

(c) FIVE-YEAR EXTENSION OF AUTHORITY.—Section 801(c) of that Act (42 U.S.C. 8287(c)) is amended by striking ''October 1, 2003'' and inserting ''October 1, 2008''.

By Mr. HELMS:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

S. 75. A bill to protect the lives of unborn human beings; read the first time.

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

LEGISLATION TO CORRECT PERMISSIVE SOCIAL POLICIES

Mr. HELMS. Mr. President, it is customary for me to introduce legislation on the first day of a new Congress that addresses what countless Americans believe are our Nation's most serious social problems. These problems are not new—and the solutions are familiar—but I shall nonetheless devote a few moments to explaining the importance of these bills, and why, more than ever, it is so crucial to correct a number of permissive social policies that are creating a moral and spiritual crisis in our country.

During the past several years, Mr. President, I have been delighted that the responsible fiscal policies of the Republican Congress, coupled with strong and stable monetary policy engineered by the Federal Reserve, has proved a successful combination for the economy. The resulting expansion—fueled not by government but by the limitless entrepreneurial energy of the American people—has been highly gratifying.

But while the American people have been largely optimistic about the state of the economy, there is a curious dichotomy between those positive feelings and their unease about the state of American society. Because for every positive report Americans read on the financial page, there seems to be utterly horrifying stories elsewhere, stories which detail a moral sickness at the heart of our culture, stories which chronicle the devaluation of human life in our society, symbolized by the tragic 1973 Supreme Court decision, Roe v. Wade.

Two years ago, I told the story of the young New Jersey woman who in May of 1997 gave birth to an infant in a public bathroom stall during her senior prom. She promptly strangled her newborn baby boy, placed his little body in a trash can, adjusted her makeup, and returned to the dance floor.

The American people were justly shocked by such callousness, and I was even more stunned to learn that stories of a similar nature are common.

Consider the following examples reported in the media in December of the year 2000.

Portland Oregonian, December 5, 2000: ''A teen-ager accused of drowning her newborn baby in the bathtub at a family gathering in July in Eagle Creek pleaded guilty on Monday to second-degree manslaughter.''

Chicago Tribune, December 9, 2000: ''A 21-year-old Fox Lake man pleaded guilty Friday to first-degree murder in the death of his girlfriend's 2-month-old daughter, who authorities said was brutally shaken and thrown during the last days of her life.

Orlando Sentinel, December 24, 2000: ''A 17-month-old baby has died after his stepfather beat the infant in the head with his fists.

News Tribune (Tacoma, Washington), December 1, 2000: ''A Lakewood mother and her live-in boyfriend have been charged with homicide-by-abuse in the mid-September death of the woman's 2-month-old son.''

Salt Lake Tribune, December 5, 2000: The mother of a newborn boy found dead after being abandoned in a shed at a St. George amusement park was bound over Monday for trial on a charge of first-degree murder.

Should we really be surprised, Mr. President, that a Nation that not only

tolerates, but actively defends the practice of partial birth abortion would produce these gruesome headlines? And should we be surprised that the extraordinary level of disrespect for human life to which America has fallen has not been limited to infant abuse on the part of caregivers, but now pervades every part of our society?

In fact, Mr. President, the abortion-on-demand zealots holding sway over the media and much of the intellectual and political establishment are becoming ever more brazen in their assault on the unborn. Just this month, the National Abortion Rights Action League, known as NARAL, began an outrageously offensive television advertising campaign seeking to cloak the divisive practice of abortion under the guise of patriotism. Amidst images of families and children, and accompanied by stirring music, the text of the advertisement falsely treats this painful procedure as a cause for celebration. ''What's life,'' the commercial asks, ''without choice?''

The deliberate destruction of the most innocent, most helpless human beings imaginable has nothing whatsoever to do with ''life.''

We have a moral crisis in our country. But too often, the mainstream media doesn't seek to remedy our decaying culture; they actually celebrate it. During the past two years, the FOX network has become notorious for trivializing our most cherished institutions with so-called ''reality entertainment'' programs like ''Who Wants to Marry a Multi-Millionaire'' and its most recent assault on good taste, ''Temptation Island''.

On this program, which debuted just weeks ago, contestants—or perhaps I should say exhibitionists—exchange their real-life relationships for promiscuous affairs, solely to divert the viewing public. And instead of responding with outrage—or at the very least, indifference—a sizeable portion of the American public rewarded the program with high ratings.

It is increasingly apparent that American society has lost its moorings. But too many politicians blithely suggest that government and morality are not and should not be related; too many producers in Hollywood claim that the filth that passes for entertainment does not corrupt our culture; and too many educators claim the academy does not have a place in addressing the difference between right and wrong.

Mr. President, they are the ones who are wrong. We fool ourselves and we fool the public if we suggest that there is no connection between the business we do in Congress and the state of public morality in our society. We are the caretakers of our own culture. And we must not shrink from the responsibility of passing laws that promote what is right and prevent what is wrong in our society.

When we make good choices, such as passing comprehensive welfare reform, the American people are rewarded with declining welfare caseloads with a corresponding decrease in crime and poverty. When Congress pursues responsible fiscal policy and balances the budget, it is possible to return to the American people more of their hard-earned money in the form of a tax cut.

In short, Mr. President, good laws help make good societies. And that is the reason I continue to introduce bills in each and every Congress that limit the modern tragedy of abortion and its insidious effects; that allow for voluntary prayer in schools; that take steps to end the scourge of drug use among our children; and that make sure our civil rights laws treat Americans as individuals rather than faceless members of racial groups, religious groups, or of a certain gender.

Mr. President, I ask unanimous consent that these six bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 73

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 ''Voluntary School Prayer Protection Act''.

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONAL SCHOOL PRAYER.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutional prayer in public schools by individuals on a voluntary basis.

(b) LIMITATION.—No person shall be required to participate in prayer, or shall influence the form or content of any constitutional prayer, in a public school.

S. 74

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 ''Schoolchildren's Health Protection Act''.

SEC. 2. SCHOOLCHILDREN'S HEALTH PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the specific provisions described in subsection (b)), no funds made available through the Department of Education shall be provided to any State or local educational agency that distributes or provides postcoital emergency contraception, or distributes or provides a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school.

(b) SPECIFIC PROVISIONS.—The specific provisions referred to in subsection (a) are section 330 and title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.) and title V and XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.).

(c) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) UNEMANCIPATED MINOR.—The term ''unemancipated minor'' means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

S. 75

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 ''Unborn Children's Civil Rights Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution;

(3) in the cases of Roe v. Wade (410 U.S. 113 (1973)) and Doe v. Bolton (410 U.S. 179 (1973)) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEYS' FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court

involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Chapter 81 of title 28, United States Code, is amended by inserting after section 1251, the following:

''§ 1252. Appeals of certain cases

''Notwithstanding the absence of the United States as a party, if any State or any subdivision of any State enforces or enacts a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the Supreme Court, notwithstanding any other provision of law.''.

S. 76

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 ''Civil Rights of Infants Act''.

SEC. 2. DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting ''(a)'' before ''Every person''; and

(2) by adding at the end the following:

''(b) For purposes of subsection (a), it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely because of the gender of the fetus shall be liable for such abortion in any manner under this section.''.

S. 78

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 ''Civil Rights Restoration Act of 2001''.

SEC. 2. PREFERENTIAL TREATMENT.

(a) UNLAWFUL EMPLOYMENT PRACTICE.—Section 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(j) is amended to read as follows:

''(j)(1) It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) or paragraph (2).

''(2) It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.''

(b) CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed to limit the authority of courts to remedy, under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)), intentional discrimination under title VII of such Act (42 U.S.C. 2000e et seq.).

S. 79

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 ''Safe Schools Act of 2001''.

SEC. 2. SAFE SCHOOLS.

(a) AMENDMENTS TO THE GUN-FREE SCHOOLS ACT OF 1994.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended—

(1) in section 14601 (20 U.S.C. 8921)—

(A) in subsection (a)—

(i) by striking ''Gun-Free'' and inserting ''Safe''; and

(ii) by striking ''1994'' and inserting ''2001'';

(B) in subsection (b)(1), by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''; and

(C) in subsection (b)(4)—

(i) by striking ''Definitions.—For the purpose of this section, the'' and inserting the following: ''Definitions.—For purposes of this section:

''(1) WEAPON.—The''; and

(ii) by adding at the end the following:

''(2) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under such Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not include a controlled substance used pursuant to a valid prescription or as authorized by law.

(3) ILLEGAL DRUG PARAPHERNALIA.—The term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)' before the period.

''(4) FELONIOUS QUANTITIES OF AN ILLEGAL DRUG.—The term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—

''(A) possession of which (quantity) would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

''(B) that is possessed with an intent to distribute.'';

(D) in subsection (d)(2)(C), by inserting ''illegal drugs or'' before ''weapons''; and

(E) by striking subsection (f);(2) in section 14602(a) (20 U.S.C. 8922(a))—

(A) by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''; and

(B) by striking ''served by'' and inserting ''under the jurisdiction of''; and

(3) in section 14603 (20 U.S.C. 8923)—

(A) in paragraph (1)—

(i) by striking ''policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994'' and inserting ''policy in effect on the date of enactment of the Safe Schools Act of 2001''; and

(ii) by adding ''and'' at the end; (B) in paragraph (2)—

(i) by striking ''engaging'' and inserting ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or engaging''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(b) COMPLIANCE DATE REPORTING.—

(1) COMPLIANCE DATE.—A State shall have 2 years from the date of enactment of this Act to comply with the requirements established under the amendments made by subsection (a).

(2) REPORTS.—

(A) ON APPROACHES FOR DISCIPLINE.—Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.

(B) ON COMPLIANCE.—Not later than 3 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

VOLUNTARY SCHOOL PRAYER PROTECTION ACT

Mr. HELMS. Mr. President, the voluntary School Prayer Protection Act will make sure that student-initiated prayer is treated the same as all other student-initiated free speech—which the U.S. Supreme Court has upheld as constitutionally protected so long as it is done in an appropriate time, place and manner such that it ''does not materially disrupt the school day.'' [Tinker v. Des Moines School District, 393 U.S. 503.]

Under this bill, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students' rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to make sure that school districts do not shortchange their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to the contrary are simply in error. Nor does it require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.

SCHOOLCHILDREN'S HEALTH PROTECTION ACT

Mr. President, there is a significant question pending before the Senate: should schools receiving federal funds be able to distribute ''morning after pills''—also identified as abortion pills—to schoolchildren? The answer is unequivocally no. Which is why I am

introducing the Schoolchildren's Health Protection Act. This pivotal legislation will put an end to elementary and secondary schools receiving federal funds from distributing ''morning after pills'' to schoolchildren as young as 12 years old.

The Congressional Research Service (CRS) has not only confirmed that Federal law permits school-based health clinics receiving federal family planning money to distribute ''Morning-after pills,'' but CRS has also reported that at least 180 schools in America are in fact distributing these abortion pills to schoolchildren. Obviously, Mr. President, we are no longer just talking about condoms being handed out at school.

What's more is that federal law currently allows schools to provide these abortion-inducing drugs to children behind the backs of parents. In a handful of cases, the federal courts have struck down parental consent laws, ruling that any federal family planning program trumps a state or county parental consent statute because federal law prohibits parental consent requirements.

Just as disturbing, if not more so, Mr. President, is that schools distributing ''morning after pills'' are placing the health of these young children in jeopardy. In fact, the manufacturer—PREVEN—warns that ''Morning after pills'' can cause severe health risks, such as: blood clots; liver tumors; elevated blood pressure; heart attacks and strokes.

It is well worth noting that the current policy in the majority of U.S. public schools prohibits the distribution of aspirin to schoolchildren unless parental consent is given. Yet, here we are legally permitting schools to secretly provide these dangerous abortion pills to minors without the knowledge of parents.

Under this bill, this unethical practice will no longer continue. Planned Parenthood and its cronies will no longer be able to use public school facilities to covertly get abortion pills into the mouths of children.

As Americans may recall, I offered a similar bill in amendment form last Congress to the Labor-HHS appropriations bill, which rightfully passed both the Senate and the House. Even though this language was not included in the final budget deal struck last year, I am hopeful Congress will revisit this issue once more, and put a complete end to the unthinkable practice of giving children abortion pills at school.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. President, the Unborn Children's Civil Rights Act has several goals. First, it puts the Senate on record as declaring that one, every abortion destroys deliberately the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe v. Wade was incorrectly decided.

Second, this legislation will prohibit Federal funding to pay for, or promote, abortion. Further, this legislation proposes to de-fund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by one, prohibiting discrimination, at all federally funded institutions, against citizens who as a matter of conscience object to abortion and two, curtailing attorney fees in abortion-related cases.

Fourth, this bill proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, I believe this bill begins to remedy some of the damage done to America by the Supreme Court's decision in Roe v. Wade. I continue to believe that a majority of my colleagues will one day agree, and I will never give up doing everything in my power to protect the most vulnerable Americans of all: the unborn.

CIVIL RIGHTS OF INFANTS ACT

In 1989, our distinguished colleague from New Hampshire, Senator Gordon Humphrey, first called attention to the incredibly brutal practice of abortions performed solely because prospective parents prefer a child of a gender different from that of the baby in the mother's womb.

The Civil Rights in Infants Act makes sure nobody could ever act upon this unthinkable decision by specifically amending title 42 of the United States Code governing civil rights. Anyone who administers an abortion for the purpose of choosing the gender of the infant will be subject to the same laws which protects any other citizen who is a victim of discrimination.

Nobody—even the most radical feminists—can ignore the absurdity of denying a child the right to life simply because the parents happened to prefer a child of the opposite gender. I hope the 106th Congress will swiftly act to fulfill the desires of the American people, who rightfully believe it is immoral to destroy unborn babies simply because the parents demand a child of a different gender.

CIVIL RIGHTS RESTORATION ACT

Mr. President, the last of these bills is entitled the Civil Rights Restoration Act. Specifically, this legislation prevents Federal agencies, and the Federal courts, from interpreting title VII of the Civil Rights Act of 1964 to allow an employer to grant preferential treatment in employment to any group or individual on account of race.

This proposal prohibits the use of racial quotas once and for all. During the past several years, almost every Member of the Senate—and the President of the United States—have proclaimed that they are opposed to quotas. This bill will give Senators an opportunity to reinforce their statements by voting in a rollcall vote against quotas.

Mr. President, this legislation emphasizes that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged and they can even have businesses with 80 percent or 90 percent minority workforces as long as the motivating factor in employment is not race.

This bill clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

> It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any person, except as provided in subsection (e) or paragraph (2).
>
> It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an under-represented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.

Specifically, this bill proposes to make part (j) of Section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race (that is, quotas) an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 37 years since the passage of the Civil Rights Act, the Federal Government and the courts have combined to corrupt the spirit of the Act as enumerated by both Hubert Humphrey and Everett Dirksen, who made clear that they were unalterably opposed to racial quotas. Yet in spite of the clear intent of Congress, businesses large and small must adhere to hiring quotas in order to keep the all-powerful federal government off their backs. This bill puts an end to that sort of nonsense once and for all.

SAFE SCHOOLS ACT OF 2001

Mr. President, the protection of the most vulnerable among us—our children—is the highest responsibility of government. Government's obligation to protect our children from harm is

nowhere more important than while they are in the care of public employees at school. Tragically, in too many of America's classrooms, this fundamental responsibility is not being met.

That is why I have worked with other concerned Senators in recent years to introduce and promote the Safe Schools Act. During the 106th Congress, the Senate passed the Act as an amendment to other legislation. Regrettably, neither of the bills it was attached to successfully navigated both the conference and final floor consideration processes.

The Safe Schools Act directly confronts the issue of illegal drug use and juvenile violence by equalizing the treatment of students who choose to carry either felonious quantities of illegal drugs or firearms to a public school. When enacted, this legislation will provide a consistent federal policy with respect to the possession of both firearms and illegal drugs in America's public school classrooms.

For students and parents, the message of the Safe Schools Act is that there are serious consequences for anyone willingly choosing to violate the law and to jeopardize the safety and security of their fellow students, teachers, and school personnel.

Mr. President, by enacting the Gun-Free Schools Act in 1994, the federal government encouraged states to adopt a stringent uniform standard with respect to students who willingly chose to carry a firearm to school. The act did this by conditioning eligibility for federal education dollars on state adoption of a policy requiring the expulsion for not less than one year of any student who brought a firearm to school. The Safe Schools Act extends this same common sense policy to any student who willingly takes a felonious quantity of illegal drugs to school.

Recently, some authorities have reported a modest reduction in criminal activity at our schools. While this news is encouraging, we can not satisfy ourselves with modest reductions. Instead, we should demand that every student be educated in a safe and crime-free classroom. Achieving this goal requires that we do more to eliminate drug-related activity from our nation's classrooms.

Anyone who doubts this need only review the latest results from the National Parents' Resource Institute for Drug Education survey, or PRIDE survey as it is called, which found that:

Gun-toting students were twenty-four times more likely to use cocaine than those who didn't bring a gun to school;

Gang members were nineteen times more likely to use cocaine than non-gang members;

Students who threatened others were six times more likely to be cocaine users than others.

Faced with the clear relationship between school violence and drugs in our classrooms, it should be evident that we must do more to protect America's school children.

In deciding what to do, I believe that we should respect the advice of those who are daily confronted with the variety of evils that result from the increasing availability of drugs in our classrooms—our students, teachers and school administrators. When surveyed, these groups have reported overwhelming support for the approach embodied in the Safe Schools Act.

Mr. President, students consistently say that the number one problem they face is the scourge of illegal drugs. Perhaps even more disturbing is the fact that students of all ages, including elementary ages, report that drugs are readily available to them.

The Center on Addiction and Substance Abuse (CASA) at Columbia University has documented the extent of this national tragedy by documenting that two-thirds (66%) of students report going to schools where students keep, use and sell drugs and that over half (51%) of high school students believe that the drug problem is getting worse.

Mr. President, I invite my colleagues to join with me and build on the progress that we made last Congress in addressing this vital issue. It is undeniable that reducing drug activity at schools will result in a better learning environment, increased discipline, and a reduction in violence. It is long past time to take action to restore schools that are secure and conducive to the education of the vast majority of students who are eager to learn. America's students and teachers deserve nothing less.

Mr. President, I do not pretend that enacting this legislation will solve all of the pathologies of modern society. But taken as a whole, they seek to turn the tide of the increasing apathy—and in some cases, outright hostility—toward moral and spiritual principles that have marked social policy at the turn of the century.

The Founding Fathers knew what would become of a society that ignores traditional morality. I have often quoted the parting words of advice our first President, George Washington, left his beloved new Nation. He reminded his fellow citizens:

> Of all the dispensations and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute to patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, that distinguished world leader, Margaret Thatcher, highlighted for us the words of Washington's successor, John Adams, who said ''our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other.''

Our Founding Fathers understood well the intricate relationship between freedom of responsibility. They knew that the blessings of liberty engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. HARKIN, Mr. WELLSTONE, Ms. LANDRIEU, Mrs. LINCOLN, Mr. AKAKA, Mr. BREAUX, Mr. CLELAND, Mr. DURBIN, Mr. INOUYE, Mr. KERRY, Mr. LEAHY, Mr. REID, Mr. SARBANES, Mr. SCHUMER, and Mr. JOHNSON):

S. 77. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAYCHECK FAIRNESS ACT

Mr. DASCHLE. 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. 77

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 ''Paycheck Fairness Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Women have entered the workforce in record numbers.

(2) Even today, women earn significantly lower pay than men for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions. These pay disparities exist in both the private and governmental sectors. In many instances, the pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination.

(3) The existence of such pay disparities—

(A) depresses the wages of working families who rely on the wages of all members of the family to make ends meet;

(B) prevents the optimum utilization of available labor resources;

(C) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of the several States;

(D) burdens commerce and the free flow of goods in commerce;

(E) constitutes an unfair method of competition in commerce;

(F) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce;

(G) interferes with the orderly and fair marketing of goods in commerce; and

(H) in many instances, may deprive workers of equal protection on the basis of sex in violation of the 5th and 14th amendments.

(4)(A) Artificial barriers to the elimination of discrimination in the payment of wages on the basis of sex continue to exist more than 3 decades after the enactment of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.).

(B) Elimination of such barriers would have positive effects, including—

(i) providing a solution to problems in the economy created by unfair pay disparities;

(ii) substantially reducing the number of working women earning unfairly low wages, thereby reducing the dependence on public assistance; and

(iii) promoting stable families by enabling all family members to earn a fair rate of pay;

(iv) remedying the effects of past discrimination on the basis of sex and ensuring that in the future workers are afforded equal protection on the basis of sex; and

(v) ensuring equal protection pursuant to Congress' power to enforce the 5th and 14th amendments.

(5) With increased information about the provisions added by the Equal Pay Act of 1963 and wage data, along with more effective remedies, women will be better able to recognize and enforce their rights to equal pay for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(6) Certain employers have already made great strides in eradicating unfair pay disparities in the workplace and their achievements should be recognized.

SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) REQUIRED DEMONSTRATION FOR AFFIRMATIVE DEFENSE.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by striking ''(iv) a differential'' and all that follows through the period and inserting the following: ''(iv) a differential based on a bona fide factor other than sex, such as education, training or experience, except that this clause shall apply only if—

''(I) the employer demonstrates that—

''(aa) such factor—

''(AA) is job-related with respect to the position in question; or

''(BB) furthers a legitimate business purpose, except that this item shall not apply where the employee demonstrates that an alternative employment practice exists that would serve the same business purpose without producing such differential and that the employer has refused to adopt such alternative practice; and

''(bb) such factor was actually applied and used reasonably in light of the asserted justification; and

''(II) upon the employer succeeding under subclause I, the employee fails to demonstrate that the differential produced by the reliance of the employer on such factor is itself the result of discrimination on the basis of sex by the employer.

''An employer that is not otherwise in compliance with this paragraph may not reduce the wages of any employee in order to achieve such compliance.''.

(b) APPLICATION OF PROVISIONS.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by adding at the end the following: ''The provisions of this subsection shall apply to applicants for employment if such applicants, upon employment by the employer, would be subject to any provisions of this section.''.

(c) ELIMINATION OF ESTABLISHMENT REQUIREMENT.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended—

(1) by striking '', within any establishment in which such employees are employed,''; and

(2) by striking ''in such establishment'' each place it appears.

(d) NONRETALIATION PROVISION.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(1) by striking ''or has'' each place it appears and inserting ''has''; and

(2) by inserting before the semicolon the following: '', or has inquired about, discussed, or otherwise disclosed the wages of the employee or another employee, or because the employee (or applicant) has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or action under section 6(d)''.

(e) ENHANCED PENALTIES.—Section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: ''Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate, except that the United States shall not be liable for punitive damages.'';

(2) in the sentence beginning ''An action to'', by striking ''either of the preceding sentences'' and inserting ''any of the preceding sentences of this subsection'';

(3) in the sentence beginning ''No employees shall'', by striking ''No employees'' and inserting ''Except with respect to class actions brought to enforce section 6(d), no employee'';

(4) by inserting after the sentence referred to in paragraph (3), the following: ''Notwithstanding any other provision of Federal law, any action brought to enforce section 6(d) may be maintained as a class action as provided by the Federal Rules of Civil Procedure.''; and

(5) in the sentence beginning ''The court in''—

(A) by striking ''in such action'' and inserting ''in any action brought to recover the liability prescribed in any of the preceding sentences of this subsection''; and

(B) by inserting before the period the following: '', including expert fees''.

(f) ACTION BY SECRETARY.—Section 16(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting ''or, in the case of a violation of section 6(d), additional compensatory or punitive damages,'' before ''and the agreement''; and

(B) by inserting before the period the following: '', or such compensatory or punitive damages, as appropriate'';

(2) in the second sentence, by inserting before the period the following: ''and, in the case of a violation of section 6(d), additional compensatory or punitive damages'';

(3) in the third sentence, by striking ''the first sentence'' and inserting ''the first or second sentence''; and

(4) in the last sentence—

(A) by striking ''commenced in the case'' and inserting ''commenced—

''(1) in the case'';

(B) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(2) in the case of a class action brought to enforce section 6(d), on the date on which the individual becomes a party plaintiff to the class action''.

SEC. 4. TRAINING.

The Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs, subject to the availability of funds appropriated under section 9(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the media, and the general public the findings resulting from studies and other materials, relating to eliminating the pay disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;

(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 6. TECHNICAL ASSISTANCE AND EMPLOYER RECOGNITION PROGRAM.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility, including decisionmaking responsibility and de facto supervisory responsibility.

(2) USE.—The guidelines developed under paragraph (1) shall be designed to enable employers voluntarily to compare wages paid for different jobs to determine if the pay scales involved adequately and fairly reflect the educational requirements, skill requirements, independence, working conditions, and responsibility for each such job with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women.

(3) PUBLICATION.—The guidelines shall be developed under paragraph (1) and published in the Federal Register not later than 180 days after the date of enactment of this Act.

(b) EMPLOYER RECOGNITION.—

(1) PURPOSE.—It is the purpose of this subsection to emphasize the importance of, encourage the improvement of, and recognize the excellence of employer efforts to pay wages to women that reflect the real value of the contributions of such women to the workplace.

(2) IN GENERAL.—To carry out the purpose of this subsection, the Secretary of Labor shall establish a program under which the Secretary shall provide for the recognition of employers who, pursuant to a voluntary job evaluation conducted by the employer, adjust their wage scales (such adjustments shall not include the lowering of wages paid to men) using the guidelines developed under subsection (a) to ensure that women are paid fairly in comparison to men.

(3) TECHNICAL ASSISTANCE.—The Secretary of Labor may provide technical assistance to assist an employer in carrying out an evaluation under paragraph (2).

(c) REGULATIONS.—The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out this section.

SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR PAY EQUITY IN THE WORKPLACE.

(a) IN GENERAL.—There is established the Alexis Herman National Award for Pay Equity in the Workplace, which shall be evidenced by a medal bearing the inscription ''Alexis Herman National Award for Pay Equity in the Workplace''. The medal shall be of such design and materials, and bear such

additional inscriptions, as the Secretary of Labor may prescribe.

(b) CRITERIA FOR QUALIFICATION.—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Secretary of Labor, at such time, in such manner, and containing such information as the Secretary may require, including at a minimum information that demonstrates that the business has made substantial effort to eliminate pay disparities between men and women, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Secretary of Labor determines to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—

(1) AWARD.—After receiving recommendations from the Secretary of Labor, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall present the award under this section with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(d) BUSINESS.—In this section, the term ''business'' includes—

(1)(A) a corporation, including a nonprofit corporation;

(B) a partnership;

(C) a professional association;

(D) a labor organization; and

(E) a business entity similar to an entity described in any of subparagraphs (A) through (D);

(2) an entity carrying out an education referral program, a training program, such as an apprenticeship or management training program, or a similar program; and

(3) an entity carrying out a joint program, formed by a combination of any entities described in paragraph (1) or (2).

SEC. 8. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–8) is amended by adding at the end the following:

''(f)(1) Not later than 18 months after the date of enactment of this subsection, the Commission shall—

''(A) complete a survey of the data that is currently available to the Federal Government relating to employee pay information for use in the enforcement of Federal laws prohibiting pay discrimination and, in consultation with other relevant Federal agencies, identify additional data collections that will enhance the enforcement of such laws; and

''(B) based on the results of the survey and consultations under subparagraph (A), issue regulations to provide for the collection of pay information data from employers as described by the sex, race, and national origin of employees.

''(2) In implementing paragraph (1), the Commission shall have as its primary consideration the most effective and efficient means for enhancing the enforcement of Federal laws prohibiting pay discrimination. For this purpose, the Commission shall consider factors including the imposition of burdens on employers, the frequency of required reports (including which employers should be required to prepare reports), appropriate protections for maintaining data confidentiality, and the most effective format for the data collection reports.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 80. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates or changes for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA ELECTRICITY CRISIS LEGISLATION

Mrs. BOXER. Mr. President, today I am introducing a bill relating to the electricity crisis in California. As a result of deregulation, Californians are confronting higher electricity prices and an unreliable supply

Last week, Northern California experienced rolling blackouts. Children were trapped in elevators. Manufacturing plans had to shut down, costing millions of dollars. Entire agricultural crops can be destroyed with a blackout. Obviously, this situation does not just affect Californians but can impact the entire nation's economy.

The bill I am introducing today is similar to legislation I introduced last fall with Representative BOB FILNER. The California Electricity Consumers Relief Act would establish a Western Regional Cap for electricity rates.

The electricity shortage experienced by California in recent months, clearly demonstrates that a price cap must be imposed on the entire Western United States to be effective. If the price for electricity is higher in other Western states than California, then a generator chooses to sell power outside of California. A regional price cap will being some stability to the market by ensuring a reliable supply for the entire Western region, so that no state will confront a shortage.

I urge Congress to bring an end to this crisis. We must now act to bring Californians and other Western states what they need—an adequate supply of electricity at a fair and reasonable price. By implementing this region-wide cap, we can address a major cause of California's energy crisis.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 81. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

NATIVE HAWAIIANS LEGISLATION

Mr. AKAKA. Mr. President, I rise today to introduce a bill on behalf of myself and my friend and colleague, Senator INOUYE. This measure is of significant importance to the people of Hawaii, particularly to the indigenous peoples of Hawaii, Native Hawaiians. This measure clarifies the political relationship between Native Hawaiians and the United States by extending the federal policy of self-determination and self-governance to Native Hawaiians.

The United States has declared a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians. Congress has recognized Native Hawaiians as the aboriginal, indigenous, native peoples of Hawaii and has passed over 150 statutes addressing the conditions of Native Hawaiians. The measure that we are introducing today extends the federal policy of self-determination and self-governance to Native Hawaiians by authorizing a process of reorganization of a Native Hawaiian government for the purposes of a federally recognized government-to-government relationship with the United States. This measure establishes parity in federal policies towards American Indians, Alaska Natives and Native Hawaiians.

The political relationship between Native Hawaiians and the United States has been a topic of discussion in Hawaii for many, many years. A significant portion of the discussion has centered around the history of Hawaii's indigenous peoples and the role of the United States in that history. In 1993, Congress passed Public Law 103–150, the Apology Resolution, which extended an apology on behalf of the United States to Native Hawaiians for the United States' role in the overthrow of the Kingdom of Hawaii. The Apology Resolution also expressed the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians.

Mr. President, I am pleased to inform you that the reconciliation process is ongoing. The reconciliation process is an incremental process of dialogue between Native Hawaiians and the United States to address a number of long-standing issues arising out of the overthrow of the Kingdom of Hawaii. I look forward to working with the Bush Administration as we continue this important process.

On October 23, 2000, a joint report was issued by the Departments of the Interior and Justice on the reconciliation process. The report was based on public consultations held in Hawaii in December 1999 between officials from the Interior and Justice Departments and Native Hawaiians. The report recommends that Native Hawaiians have self-determination over their own affairs within the framework of federal law, as do Native American tribes. The measure we are introducing today, Mr. President is consistent with this recommendation.

This measure does not create a political relationship between Native Hawaiians and the United States. The political relationship has existed since Hawaii's inception as a territory. Rather, the measure we introduce today clarifies the existing political relationship between Hawaii's indigenous peoples and the United States.

This measure authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally recognized government-to-government relationship. The measure authorizes Native Hawaiians to resolve many issues in developing the organic governing documents, including the issue of membership or citizenship in the reorganized government. This bill also establishes an office within the Department of the Interior to focus on Native Hawaiian issues. The office would serve as a liaison between Native Hawaiians and the United States during the reconciliation process and would provide assistance during the process of reorganization of the Native Hawaiian government. Federal programs currently administered with other federal agencies would remain with those agencies.

An identical version of the measure was introduced during the 106th Congress. The House of Representatives passed the measure with bipartisan support. The Senate Committee on Indian Affairs reported the measure favorably. Unfortunately, the Senate did not consider the measure prior to the adjournment of the last Congress.

Mr. President, I would like to clarify some misconceptions regarding this important measure. First, this measure is not being introduced to circumvent the 1999 United States Supreme Court decision in the case of Rice v. Cayetano. The Rice case was a voting rights case whereby the Supreme Court held that the State of Hawaii must allow all citizens of Hawaii to vote for the Board of Trustees of a quasi-state agency, the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs was established by citizens of the State of Hawaii as part of the 1978 State of Hawaii Constitutional Convention. The State constitution was amended to create the Office of Hawaiian Affairs as a means to give expression to the right of self-determination and self-governance for Hawaii's indigenous peoples, Native Hawaiians. The Office of Hawaiian Affairs administers programs and services for Native Hawaiians. The State constitution provided for 9 trustees who were Native Hawaiian to be elected by Native Hawaiians. Following the Supreme court's ruling in Rice v. Cayetano, the elections were not only open to all citizens in the State of Hawaii, but non-Hawaiians were deemed eligible to serve on the Board of Trustees. Whereas the *Rice* case dealt with voting rights and the State of Hawaii, the measure we introduce today addresses the federal policy of self-determination and self-governance and does not involve the Office of Hawaiian Affairs.

This measure does not establish entitlements or special treatment for Native Hawaiians based on race. This measure focuses on the political relationship afforded to Native Hawaiians based on the United States' recognition of Native Hawaiians as the aboriginal, indigenous peoples of Hawaii. As we all know, the United States' history with its indigenous peoples has been dismal. In recent decades, however, the United States has engaged in a policy of self-determination and self-governance with its indigenous peoples. Government-to-government relationships provide indigenous peoples with the opportunity to work directly with the federal government on policies affecting their lands, natural resources and many other aspects of their well-being. While federal policies towards Native Hawaiians have paralleled that of Native American Indians and Alaska Natives, the federal policy of self-determination and self-governance, has not yet been extended to Native Hawaiians. This measure extends this policy to Native Hawaiians, thus furthering the process of reconciliation between Native Hawaiians and the United States.

This measure does not impact program funding for American Indians and Alaska Natives. Federal programs for Native Hawaiian health, education and housing are already administered by the Departments of Health and Human Services, Education, and Housing and Urban Development.

In addition, this measure has strong support from indigenous peoples within the United States. The National Congress of American Indians and Alaska Federation of Natives have both passed resolutions in support of a government-to-government relationship between Native Hawaiians and the United States. Similar resolutions have been passed by the Japanese American Citizens' League and the National Education Association. The measure is also supported by the Hawaii State Legislature, which passed a resolution supporting a federally recognized government-to-government relationship.

This measure does not preclude Native Hawaiians from seeking alternatives in the international arena. Instead, this measure focuses on self-determination within the framework of federal law and seeks to establish equality in the federal policies extended towards American Indians, Alaska Natives and Native Hawaiians.

This measure is critical to the people in Hawaii because it begins a process to address many longstanding issues facing Hawaii's indigenous peoples and the State of Hawaii. By resolving these matters, we begin a process of healing, a process of reconciliation not only within the United States, but within the State of Hawaii. These issues are deeply rooted in the history of Hawaii. The time has come for us to begin to resolve these differences in order to be able to move forward together as one.

Mr. President, I cannot emphasize enough how significant this measure is for the State of Hawaii. I look forward to working with my colleagues to enact this critical measure for the State of Hawaii and indigenous peoples in the United States.

Mr. President, I request unanimous consent that the text of this measure be printed in the RECORD.

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

S. 81

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and

further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.

(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

(19) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that—

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4) by—

(i) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(ii) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

(22) The United States continually has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.

SEC. 2. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.

(2) ADULT MEMBERS.—The term ''adult members'' means those Native Hawaiians who have attained the age of 18 at the time the Secretary publishes the final roll, as provided in section 7(a)(3) of this Act.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a joint resolution offering an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) CEDED LANDS.—The term ''ceded lands'' means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 4).

(5) COMMISSION.—The term ''Commission'' means the commission established in section 7 of this Act to certify that the adult members of the Native Hawaiian community contained on the roll developed under that section meet the definition of Native Hawaiian, as defined in paragraph (7)(A).

(6) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) NATIVE HAWAIIAN.—

(A) Prior to the recognition by the United States of a Native Hawaiian government under the authority of section 7(d)(2) of this Act, the term ''Native Hawaiian'' means the indigenous, native people of Hawaii who are the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(B) Following the recognition by the United States of the Native Hawaiian government under section 7(d)(2) of this Act, the term ''Native Hawaiian'' shall have the meaning given to such term in the organic governing documents of the Native Hawaiian government.

(8) NATIVE HAWAIIAN GOVERNMENT.—The term ''Native Hawaiian government'' means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(d)(2) of this Act.

(9) NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—The term ''Native Hawaiian Interim Governing Council'' means the interim governing council that is organized under section 7(c) of this Act.

(10) ROLL.—The term ''roll'' means the roll that is developed under the authority of section 7(a) of this Act.

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

(12) TASK FORCE.—The term ''Task Force'' means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) IN GENERAL.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) DUTIES OF THE OFFICE.—The United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by providing timely notice to, and consulting with the Native Hawaiian people prior to taking any actions that may affect traditional or current Native Hawaiian practices and matters that may have the potential to significantly or uniquely affect Native Hawaiian resources, rights, or lands, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian government by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian people and the Native Hawaiian government and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) assist the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance in the development of the roll under section 7(a) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the ''Native Hawaiian Interagency Task Force''.

(b) COMPOSITION.—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs established under the authority of section 4 of this Act and the Attorney General's designee under the authority of section 5 of this Act shall serve as co-chairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the—

(A) adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—

(i) the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago; or

(ii) Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or their lineal descendants; and

(B) the children of the adult members listed on the roll prepared under this subsection.

(2) CERTIFICATION AND SUBMISSION.—

(A) COMMISSION.—

(i) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purpose of certifying that the adult members of the Native Hawaiian community on the roll meet the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act.

(ii) MEMBERSHIP.—

(I) APPOINTMENT.—The Secretary shall appoint the members of the Commission in accordance with subclause (II). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(II) REQUIREMENTS.—The members of the Commission shall be Native Hawaiian, as defined in section 2(7)(A) of this Act, and shall have expertise in the certification of Native Hawaiian ancestry.

(III) CONGRESSIONAL SUBMISSION OF SUGGESTED CANDIDATES.—In appointing members of the Commission, the Secretary may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) CERTIFICATION.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(3) SECRETARY.—

(A) CERTIFICATION.—The Secretary shall review the Commission's certification of the membership roll and determine whether it is consistent with applicable Federal law, including the special trust relationship between the United States and the indigenous, native people of the United States.

(B) PUBLICATION.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(C) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission's determination as it concerns—

(I) the exclusion of the name of a person who meets the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act, from the roll; or

(II) a challenge to the inclusion of the name of a person on the roll on the grounds that the person does not meet the definition of Native Hawaiian, as so defined.

(ii) PUBLICATION; UPDATE.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) FAILURE TO ACT.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Commission submits the membership roll to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) EFFECT OF PUBLICATION.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections associated with the organization of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) RECOGNITION OF RIGHTS.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(1) ORGANIZATION.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to—

(A) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(B) determine the structure of the Native Hawaiian Interim Governing Council; and

(C) elect members to the Native Hawaiian Interim Governing Council.

(2) ELECTION.—Upon the request of the adult members listed on the roll developed under the authority of subsection (a), the United States Office for Native Hawaiian Affairs may assist the Native Hawaiian community in holding an election by secret ballot (absentee and mail balloting permitted), to elect the membership of the Native Hawaiian Interim Governing Council.

(3) POWERS.—

(A) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to represent those on the roll in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(B) FUNDING.—The Native Hawaiian Interim Governing Council is authorized to enter into a contract or grant with any Federal agency, including but not limited to, the United States Office for Native Hawaiian Affairs within the Department of the Interior and the Administration for Native Americans within the Department of Health and Human Services, to carry out the activities set forth in subparagraph (C).

(C) ACTIVITIES.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to conduct a referendum of the adult members listed on the roll developed under the authority of subsection (a) for the purpose of determining (but not limited to) the following:

(I) The proposed elements of the organic governing documents of a Native Hawaiian government.

(II) The proposed powers and authorities to be exercised by a Native Hawaiian government, as well as the proposed privileges and immunities of a Native Hawaiian government.

(III) The proposed civil rights and protection of such rights of the citizens of a Native Hawaiian government and all persons subject to the authority of a Native Hawaiian government.

(ii) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based upon the referendum, the Native Hawaiian Interim Governing Council is authorized to develop proposed organic governing documents for a Native Hawaiian government.

(iii) DISTRIBUTION.—The Native Hawaiian Interim Governing Council is authorized to distribute to all adult members of those listed on the roll, a copy of the proposed organic governing documents, as drafted by the Native Hawaiian Interim Governing Council, along with a brief impartial description of the proposed organic governing documents.

(iv) CONSULTATION.—The Native Hawaiian Interim Governing Council is authorized to freely consult with those members listed on the roll concerning the text and description of the proposed organic governing documents.

(D) ELECTIONS.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) ASSISTANCE.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) TERMINATION.—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.—

(1) PROCESS FOR RECOGNITION.—

(A) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—The duly elected officers of the Native Hawaiian government shall submit the organic governing documents of the Native Hawaiian government to the Secretary.

(B) CERTIFICATIONS.—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a);

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States;

(iii) provide for the exercise of those governmental authorities that are recognized by the United States as the powers and authorities that are exercised by other governments representing the indigenous, native people of the United States;

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government, and to assure that the Native Hawaiian government exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302);

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian government without the consent of the Native Hawaiian government;

(vi) establish the criteria for citizenship in the Native Hawaiian government; and

(vii) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) FAILURE TO ACT.—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government to the Secretary, the certifications authorized in subparagraph (B) shall be deemed to have been made.

(D) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH FEDERAL LAW.—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part thereof, are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) AMENDMENT AND RESUBMISSION BY THE NATIVE HAWAIIAN GOVERNMENT.—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government by the Secretary under clause (i), the duly elected officers of the Native Hawaiian government shall—

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law; and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with subparagraphs (B) and (C).

(2) FEDERAL RECOGNITION.—

(A) RECOGNITION.—Notwithstanding any other provision of law, upon the election of the officers of the Native Hawaiian government and the certifications (or deemed certifications) by the Secretary authorized in paragraph (1), Federal recognition is hereby extended to the Native Hawaiian government as the representative governing body of the Native Hawaiian people.

(B) NO DIMINISHMENT OF RIGHTS OR PRIVILEGES.—Nothing contained in this Act shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people which are not inconsistent with the provisions of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of Native Hawaiians contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 5) is hereby reaffirmed.

(b) NEGOTIATIONS.—Upon the Federal recognition of the Native Hawaiian government pursuant to section 7(d)(2) of this Act, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian government regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use under existing law as in effect on the date of enactment of this Act to the Native Hawaiian government.

SEC. 10. DISCLAIMER.

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

SEC. 11. REGULATIONS.

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

SEC. 12. SEVERABILITY.

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the amendments made by this Act, shall continue in full force and effect.

By Mr. LUGAR:

S. 82. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Commitee on Finance.

S. 83. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 84. A bill to increase the unified estate and gift taxes and the tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance

S. 85. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

ESTATE TAXES

Mr. LUGAR. Mr. President, I am pleased to introduce a series of bills intended to address the burden that estate taxes place on our economy. The estate tax hinders entrepreneurial activity and job creation in many economic sectors.

As Chairman of the Senate Agriculture Committee, I have held hearings on the impact of the estate tax on farmers, ranchers, and rural communities. The effects of inheritance taxes are far reaching in the agricultural community. Citing personal experiences, witnesses described how the estate tax discourages savings, capital investment, and job formation.

One such story came from a Hoosier, Mr. Woody Barton. He is a fifth generation tree farmer living in the house his great grandparents built in 1885. I visited his 300 acres of forested property recently and can attest to their beauty. Typical of many farmers, Mr. Barton is over 65 years old and wants to leave this legacy to his four children. But he fears that the estate tax may cause his children to strip the timber and then sell the land in order to pay the estate tax bill. His grandmother logged a portion of the land in 1939 to pay the debts that came from the death of her husband. In essence, each generation must buy back the hard work and dedication of their ancestors from the federal government. Mr. Barton believes, and I agree, that the actions of Congress have more impact on the outcome of his family's land than his own planning and investment. This should not be the case.

The estate tax falls disproportionately on our agricultural producers. Ninety-five percent of farms and ranch operations are sold proprietorships or family partnerships, subjecting a vast majority of these businesses to the threat of inheritance taxes. According to USDA figures farmers are six times more likely to face inheritance taxes than other Americans. And commercial farm estates—those core farms that produce 85 percent of our nation's agricultural products-are fifteen times more likely to pay inheritance taxes than other individuals.

The threat of estate taxes to family farms will become even more prevalent if nothing is done. With the average farmer approaching 60 years of age, farm families throughout the country are about to confront the burden of estate taxes as they prepare to pass their farm onto the next generation. Recently, the USDA estimated that between 1992 and 2002, more than 500,000 farmers will have retired. Demographic studies indicate that a quarter of all farmers could confront the inheritance tax during the next 20 years.

In light of this problem, today I offer several bills to provide relief to those impacted by the estate tax. This is the third consecutive Congress that I have offered this series of bills on the first day of bill introduction. I am optimistic that this will be the Congress that will finally repeal the estate tax.

My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over five years by gradually raising the unified credit each year until the tax is repealed after the fifth year. My third bill would immediately raise the effective unified credit to $5 million. My last bill would raise the gift tax exemption from $10,000 to $25,000.

I believe that the best option is a simple repeal of the estate tax. However, even if the estate tax is not repealed, the unified credit must be raised significantly. Despite our most recent success in raising the exemption level, inflation has caused a growing percentage of estates to be subjected to the estate tax. My second bill is intended to highlight this point and provide a gradual path to repeal. My third bill focuses on relieving the estate tax burden that falls disproportionately on farmers and small business owners. By raising the exemption amount to $5 million, 96 percent of estates with farm assets and 90 percent of estates with non-corporate business assets would not have to pay estate taxes, according to the IRS. The final bill raising the gift tax exemption from $10,000 to $25,000 would provide Americans with an additional tool for passing productive assets to the next generation. This level has not been adjusted since 1982.

Despite its modest beginnings in 1916, the estate tax has mushroomed into an exorbitant tax on death that discourages savings, economic growth, and job formation by blocking the accumulation of entrepreneurial capital and by breaking up family businesses and farms. With the highest marginal rate at 55 percent, more than half of an estate can go directly to the government. By the time the inheritance tax is levied on families, their assets have already been taxed at least once. This form of double taxation violates perceptions of fairness in our tax system.

If we are sincere about boosting economic growth, we must consider what effect the estate tax has on a business owner deciding whether to invest in new capital goods or hire a new employee. The Heritage Foundation estimates that repealing the estate tax would annually boost our economic output by $11 billion, create 145,000 new jobs and raise personal income by $8 billion. These figures underscore the current weight of this tax on our economy.

One might expect that for all the economic disincentives caused by the estate tax, it must at least provide a sizable contribution to the U.S. Treasury. But in reality, the estate tax only accounts for about 1 percent of federal taxes. It cannot be justified as an indispensable revenue raiser. Given the blow delivered to job formation and economic growth, the estate tax may even cost the Treasury money. Our nation's ability to crease new jobs, new opportunities, and new wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family, and work. Small businesses and farms represent much more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a business, farm, or ranch so that economic opportunities and a way of life can be passed on to one's children and grandchildren.

I know first-hand about the dangers of this tax to agriculture. My father died when I was 24, leaving his 604-acre farm in Marion County, Indiana, to his family. I helped manage the farm, which had built up considerable debts during my father's illness. Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky; that farm remains in our family. But many of today's farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

Mr. President, I was delighted that during the last Congress we were able to pass the Death Tax Elimination Act. Despite its ultimate veto, this legislative step was an important one and will hopefully carry over momentum to this congress. As we take up this issue again in the coming months, the bills that I have introduced will provide policymakers with a range of options as they seek to mitigate the burdens of the estate tax. Doing so will lead to expanded investment incentives and job creation and will reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms, and our economy from this counterproductive tax. I ask unanimous consent that my four bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 82

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 ''Estate and Gift Tax Repeal Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings and eliminate double taxation.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(7) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 83

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 ''Estate and Gift Tax Phase-Out Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth.

(5) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(6) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. PHASE-OUT OF ESTATE AND GIFT TAXES THROUGH INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended to read as follows:

''In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
2002	$1,000,000
2003	$1,500,000
2004	$2,000,000
2005	$2,500,000
2006	$5,000,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

SEC. 4. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2006.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall not later than 90 days after the effective date of this section, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 84

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 ''Farmer and Entrepreneur Estate Tax Relief Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) The repeal of the estate tax would increase the growth of the small business sector, which creates a majority of new jobs in our Nation. Estimates indicate that as many as 70 percent of small businesses do not make it to a second generation and nearly 90 percent do not make it to a third.

(7) Eliminating the estate tax would lift the compliance burden from farmers and family businesses. On average, family-owned businesses spent over $33,000 on accountants, lawyers, and financial experts in complying with the estate tax laws over a 6.5-year period.

(8) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(9) As the average age of farmers approaches 60 years, it is estimated that a quarter of all farmers could confront the estate tax over the next 20 years. The auctioning of these productive assets to finance tax liabilities destroys jobs and harms the economy.

(10) Abolishing the estate taxes would restore a measure of fairness to our Federal tax system. Families should be able to pass on the fruits of the labor to the next generation without realizing a taxable event.

(11) Despite this heavy burden on entrepreneurs, farmers, and our entire economy, estate and gift taxes collect only about 1 percent of our Federal tax revenues. In fact, the estate tax may not raise any revenue at all, because more income tax is lost from individuals attempting to avoid estate taxes than is ultimately collected at death.

(12) Repealing estate and gift taxes is supported by the White House Conference on Small Business, the Kemp Commission on Tax Reform, and 60 small business advocacy organizations.

SEC. 3. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended—

(1) by striking ''2002 and 2003'' and inserting ''2002 or thereafter'',

(2) by striking ''$700,000'' and inserting ''$5,000,000'', and

(3) by striking all matter beginning with the item relating to 2004 through the end of the table.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

S. 85

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

SECTION 1. INCREASE IN GIFT TAX EXCLUSION.

(a) IN GENERAL.—Section 2503(b) of the Internal Revenue Code of 1986 (relating to exclusions from gifts) is amended—

(1) by striking ''$10,000'' each place it appears and inserting ''$25,000'',

(2) by striking ''1998'' in paragraph (2) and inserting ''2002'', and

(3) by striking ''1997'' in paragraph (2)(B) and inserting ''2001''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 2001.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. KERRY, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. HOLLINGS, Mr. BAYH, Mrs. BOXER, Mr. BROWNBACK, Mr. CLELAND, Mrs. CLINTON, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. EDWARDS, Mr. ENZI, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. LINCOLN, Mr. MILLER, Mrs. MURRAY, Mr. ROBERTS, Mr. SCHUMER, Mr. THOMAS, Mr. WYDEN, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. HARKIN):

S. 88. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

BROADBAND TAX CREDIT LEGISLATION

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Broadband Internet Access Act of 2001. The convergence of computing and communications has changed the way America interacts and does business. Individuals, businesses, schools, libraries, hospitals, and many others, reap the benefits of networked communications more and more each year. However, where in the past access to low bandwidth telephone facilities met our communications needs, today many people and organizations need the ability to transmit and receive large amounts of data quickly—as part of electronic commerce, distance learning, telemedicine, and even for mere access to many web sites.

In some areas of the country companies are building networks that meet today's broadband need as fast as they can. Technology companies are fighting to roll out the current generation of broadband facilities as quickly as they can in urban and suburban areas. They are tearing up streets to install fiber optics, converting cable TV facilities to broadband telecom applications, developing incredible new DSL technologies that convert regular copper telephone wires into broadband powerhouses.

Other areas are not as fortunate. In rural and inner city areas access to even the current generation of broadband communications is harder to come by. In fact, there are only a few broadband providers outside the prosperous areas of big cities and suburban areas nationwide. This is because in many cases rural areas are more expensive to serve. Terrain is difficult. Populations are widely dispersed. Importantly, many of our current broadband technologies cannot serve people who live more than eighteen thousand feet from a phone company's central office—which is the case for most rural Americans. In inner cities, companies may believe that lower household income levels will not support a market for their services, so they chose not to invest in these communities.

The implications for the country if we allow this broadband disparity to continue are alarming. Organizations in traditional robust communications and computing regions, often located in prosperous urban and suburban communities, will be able to reap the rewards of a networked economy. Organizations in other areas, often in rural areas as in inner cities, including many areas in my State of West Virginia, will suffer the consequences of being unable to take advantage of the astounding power of broadband networked computing.

Just as companies that employ technological advances are decimating their less technologically savvy competitors, businesses in infrastructure-rich areas may soon decimate competitors in infrastructure-poor areas. This is just as true as rural and inner city students, workers trying to gain new skills, and regular individuals who want to participate in the New Economy in other ways compete against their non-rural peers. The result could be disastrous for Americans who live in rural areas or in our inner cities: job loss, tax revenue loss, brain drain, and business failure concentrated in their communities.

Denying Americans who live in rural areas and inner cities a chance to participate in the New Economy is also bad for the national economy. Businesses will be forced to locate their operations and hire their employees in urban locations that have adequate broadband infrastructure, rather than in rural or inner city locations that are otherwise more efficient due to the location of their customers or suppliers, a stable or better workforce, and cheaper production environments. Additionally, without adequate infrastructure, the businesses and individuals in these communications infrastructure poor areas are less likely to be integrated into the national electronic marketplace. Their absence would put a damper on the growth of the digital economy for everyone—not just for those in rural areas.

Therefore, we must do everything we can to ensure that broadband communications are available to all areas of the country—rural and inner city as well as the prosperous urban and suburban communities. The Broadband Internet Access Act of 2001 addresses this problem.

The Act would give companies the incentive to build current generation broadband facilities in rural areas by using a very focused tax credit. It would offer any company that invests in broadband facilities in rural or inner city areas a ten percent tax credit over the next five years. This tax credit will help fight the growing disparity in technology I just described.

The credit is also restricted to investments needed for high-speed broadband telecommunications services. This means that only powerful broadband services are covered. Companies cannot claim that inferior services qualify for the credit. Only facilities that can download data at a rate of speed of 1.5 megabytes per second, and upload data at 200 kilobytes per second qualify.

In addition, the bill provides a 20 percent tax credit for companies that invest in next generation broadband services. These powerful new services, that can deliver data capacities of 22 megabytes per second download and 5 megabytes per second upload will be the infrastructure the new economy depends as the digital economy matures. We need to reward the companies who have the foresight to invest in these next generation broadband services—they will benefit the whole country.

The Broadband Internet Access Act of 2000 is part of the solution to the critically important digital divide problem. Rural Americans and Americans living in inner cities deserve the chance to participate in the New Economy. Without access to broadband services they will not have this chance. I hope that the Members of this body will support this important bill.

For those who want even more details, I ask unanimous consent that Attachment One to this statement, titled Broadband Internet Access Tax Credit, be made part of the RECORD. This attachment is a detailed explanation of the tax credit based on an analysis of the similar Broadband Internet Access Act of 2000, from the 106th Congress. We will hopefully have a more updated explanation that reflects changes to the bill for the 107th Congress very soon.

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

BROADBAND INTERNET ACCESS TAX CREDIT

(New sec. 48A of the Code)

PRESENT LAW

Present law does not provide a credit for investments in telecommunications infrastructure.

EXPLANATION OF PROVISION

The bill provides a credit to 10 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment

with which ''current generation'' broadband services are delivered to subscribers in rural and underserved areas. In the addition, the bill provides a credit equal to 20 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which ''next generation'' broadband services are delivered to subscribers in rural areas, underserved areas, and to residential subscribers.

Current generation broadband services is defined as the transmission of signals at a rat of at least 1.5 million bits per second to the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services is defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber. Taxpayers will be permitted to substantiate their satisfaction of the required transmission rates through statistically significant test data demonstrating satisfaction of the required transmission rates, by providing evidence that all relevant subscribers were provided with a written guarantee that the required transmission rates would be satisfied, or through any other reasonable method. For this purpose, the fact that certain subscribers are not able to access such services at the required transmission rates due to limitations in equipment outside of the control of the provider, or in equipment other than qualified equipment, shall not be taken into account.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area is any census tract which is located in an empowerment zone, enterprise community, renewal zone or low-income community. A residential subscriber is any individual who purchases broadband services to be delivered to his or her dwelling.

Qualified expenditures

Qualified expenditures are those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. Qualified expenditures are those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2006.

The expenditures are taken into account for purposes of claiming the credit in the first taxable year in which broadband service is delivered to at least 10 percent of the specified type of subscribers which the qualified equipment is capable of serving in an area in which the provider has legal or contractual area access rights or obligations. For this purpose, it is intended that the subscribers which the equipment is capable of serving will be determined by the least capable link in the system. For example, if a system has a packet switch capable of serving 10,000 subscribers, followed by a digital subscriber line access multiplexer (''DSLAM'') capable of serving only 2,000 subscribers, then the area which the equipment is capable of serving is the area served by the 2,000 DSLAM lines.

Although the credit only applies with respect to qualified expenditures incurred during specified periods, the fact that the expenditures are not taken into account until a later period will not affect the taxpayer's eligibility for the credit. For example, if a taxpayer incurs qualified expenditures with respect to equipment providing next generation broadband services in 2004, but the taxpayer does not satisfy the 10 percent subscription threshold until 2005, the taxpayer will be eligible for the credit in 2005 (assuming the other requirements of the bill are satisfied). To substantiate their satisfaction of the 10 percent subscription threshold, taxpayers will be required to provide such information as is required by the Secretary, which may include relevant customer date or evidence of independent certification.

In the case of a taxpayer that incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualified expenditures are determined by multiplying otherwise qualified expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualified equipment would be capable of serving, as determined by the least capable link in the system. Taxpayers may use any reasonable method to determine the relevant total potential subscriber population, based on the most recently published census data. In addition, for purposes of substantiating the total potential subscriber population which equipment is capable of serving, taxpayers will be required to provide such information as is required by the Secretary, which may include manufacturer's equipment ratings or evidence of independent certification.

Qualified equipment

Qualified equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. It is intended that this standard would be satisfied if a subscriber utilizing broadband services through the equipment is able to receive the specified transmission rates in at least 99 out of 100 attempts.

In the case of a telecommunications carrier, qualified equipment is equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualified equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualified equipment is equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualified equipment is equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. In addition, any packet switching equipment deployed in connection with other qualified equipment is qualified equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Finally, multiplexing and demultiplexing equipment and other equipment making associated applications deployed in connection with other qualified equipment is qualified equipment only if it is located between qualified packet switching equipment and the subscriber's premises.

Although a taxpayer must incur the expenditures directly in order to qualify for the credit, the taxpayer may provide the requisite broadband services either directly or indirectly. For example, if a partnership constructs qualified equipment or otherwise incurs expenditures, but the requisite services are provided by one or more of its partners, the partnership will be eligible for the credit (assuming the other requirements of the bill are satisfied). It is anticipated that the Secretary will issue regulations or other published guidance demonstrating how the requirements of the bill are satisfied in such situations.

EFFECTIVE DATE

The provision is effective for expenditures incurred after December 31, 2001.

Mr. BURNS. Mr. President, I rise today in support of a bill I supported last Congress along with over half of the members in this body. The bill, the Broadband Internet Access Act of 2001, creates tax incentives for the deployment of broadband (high-speed) Internet services to rural, low-income, and residential areas.

This bill will ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

The legislation provides graduated tax credits to companies that bring qualified telecommunication capabilities to targeted areas. It grants a 10-percent credit for expenditures on equipment that provide current generation bandwidth of 1.5 million bits per second (mbps) downstream and .2 mbps upstream to subscribers in rural and low-income areas, and a 20-percent credit for delivery of next generation 22 mbps downstream and 5 mbps upstream to these customers and other residential subscribers.

This bill has been endorsed by a number of organizations, including Bell Atlantic, MCI/Worldcom, Corning Incorporated, the National Telephone Cooperative Association, the Association for Local Telecommunications Services, the United States Distance Learning Association, and the Imaging Science and Information Systems Center at Georgetown University Medical Center.

Mr. President, in a few short years, the Internet has grown exponentially to become a mass medium used daily by over 100 million people worldwide. The explosion of information technology has created opportunities undreamed of by previous generations. In my home state of Montana, companies such as Healthdirectory.com and Vanns.com are taking advantage of the global markets made possible by the stunning reach of the Internet.

The pace of broadband deployment to rural America must be accelerated for electronic commerce to meet its full potential however. Broadband access is as important to our small businesses in Montana as water is to agribusiness.

I am aware of all of the recent discussion regarding the ''digital divide'' and I am very concerned that the pace of broadband deployment is greater in urban than rural areas. However, there is some positive and exciting news on this front as well. The reality on the ground shows that some of the ''gloom and doom'' scenarios are far from the case. By pooling their limited resources, Montana's independent and cooperative telephone companies are doing great things. I encourage my colleagues to support this bill.

Mr. GRASSLEY:

S. 89. A bill to enhance the illegal narcotics control activities of the United States, and for other purposes; to the Committee on the Judiciary.

DRUG-FREE AMERICA ACT OF 2001

Mr. GRASSLEY. Mr. President. I rise today to introduce the ''Drug-Free America Act of 2001.'' As many of my colleagues know, drug use by the children in our country continues to be a serious concern of mine. The ''Drug-Free America Act'' offers a series of initiatives that I believe will support efforts across the board to discourage drug use at all levels in America.

Mr. President, I've said it before, but it bears repeating. Somewhere along the way, we lost the clear, consistent message that the only proper response to drugs is to say an emphatic ''no.'' We're supposed to be more sophisticated. More tolerant. More willing to listen to notions of making dangerous drugs more available. What all of this ''more'' has meant is that we have more young people using more drugs at younger ages. Today we are competing with a drug culture that tells our children ''drugs are cool,'' that ''drug are safe.'' Drugs are being more aggressively marketed, and are presented as being ''user friendly''.

We cannot remain silent. I look forward with working with President Bush in providing the resources and message necessary to let everyone know that drugs are bad, that drugs will damage your brain and your body, and that drug use will hurt you, your friends, your family, your community, and your future.

The drug problem confronting our country is not static. Methamphetamine, Ecstasy, and other new drugs pose different challenges and require different solutions than the heroin and cocaine epidemics. Treatment, education, prevention, and law enforcement efforts must all be strengthened and updated. The National Institutes of Health have some exciting research efforts underway that could really make a difference as we try to reclaim the lives of our fellow citizens who have been seduced by the false pleasures of drug use. There are several education and prevention initiatives that we can strengthen to support the educators, counselors, community activists, and parents who work hard every day to keep our children and our communities drug free. We should support ongoing efforts by the National Guard Counterdrug Directorate, and re-authorize the U.S. Customs Service, our Nation's oldest law enforcement agency. We need to believe in our future. I believe that by working together, we can, we will make a difference. I hope my colleagues will join me in working to address this important problem before it becomes any worse.

Left unanswered, we will see another generation of young lives blighted. We will see families torn up by a widening circle of hurt from drug use. We saw what a similar wave of drug use did to us and to a generation of young people in the 1960s and 1970s. We are smarter now, we have better tools and better knowledge. We cannot afford to go through this again. I hope we can begin today to renew our commitment to a drug free future for our young people. I have said this in numerous town meetings, and I now say it here, ''working together, we can make a difference.''

I urge my colleagues to join me in supporting the Drug-Free America Act, and look forward to working with my colleagues on these important initiatives.

Mr. President, I send this bill to the desk, and request that it be printed in the appropriate place in the RECORD.

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

S. 89

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 ''Drug-Free America Act of 2001''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Illegal drugs cost America more than $70,000,000,000 annually. These costs include lost productivity, as well as money spent for drug treatment, illnesses related to drug use, crime prevention and enforcement, and welfare.

(2) Federal, State, and local governments spend more than $30,000,000,000 annually to combat illegal drugs and the consequences of illegal drugs.

(3) The estimated total expenditure by Americans on illicit drugs in 1993 was $48,700,000,000. The vast majority of these illegal drugs are produced overseas and then smuggled into the United States by major criminal organizations.

(4) The estimated worldwide potential of coca net production in 1996 was 303,600 metric tons, and in the same year, the worldwide coca cultivation was 209,700 hectares.

(5) The production of opium has also been increasing for at least the past 10 years, and reached a new high in 1996 of 4,212 metric tons. Production throughout the world has led to an increase in the heroin addict population of the United States, bringing it to a new high of more than 600,000 people.

(6) Money laundering constitutes a serious challenge to the maintenance of law and order throughout the hemisphere and poses a threat to stability, reliability, and the integrity of governments, financial systems, and commerce.

(7) Money laundering of illegal drug profits is an integral part of the drug trafficking process, creating an obstacle in fighting drugs. It is estimated that $100,000,000,000 to $300,000,000,000 in United States currency is laundered each year.

(8) Certification pursuant to the Foreign Assistance Act of 1961 is an essential tool in United States foreign policy. Through the certification process there has been improvement in cooperation levels that demonstrates the importance of holding countries responsible for being major producing, transit, and money laundering countries.

(9) The major criminal organizations that traffic in illegal narcotics are international in scope and extremely flexible in their activities, and are becoming increasingly sophisticated in their methods of operation. Their influence reaches to the highest levels of some foreign governments.

(10) The threat of corruption at all levels of government remains a significant concern when dealing with many nations. Explosive corruption in a number of countries is undermining domestic processes and the rule of law. United States assistance and the pressure of decertification have encouraged many countries to take corruption seriously.

(11) The production and trafficking of illegal narcotics presents a threat to United States interests, both domestic and foreign. Drugs are a corrosive influence on our children, our values, and our Government.

TITLE I—DOMESTIC DEMAND REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Domestic Narcotic Demand Reduction Act of 2001''.

Subtitle A—Drug Treatment and Research

SEC. 111. SHORT TITLE.

This subtitle may be cited as the ''Drug Treatment and Research Enhancement Act of 2001''.

SEC. 112. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) SHORT TITLE.—This section may be cited as the ''Key Professionals Education Act''.

(b) CORE COMPETENCIES.—Subpart 2 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-21 et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106-310), is amended by adding at the end the following:

''SEC. 519F. CORE COMPETENCIES.

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

''(1) According to a 1999 Monitoring the Future Report, heroin use doubled among youth in the United States between 1991 and 1995. Since that time, such heroin use among such youth has remained at the high level reached in 1995.

''(2) The sharp increase in heroin use during the 1990's may be a result of the introduction into the market of heroin of a higher purity.

''(3) According to the National Center on Addiction and Substance Abuse, 29.9 percent of the population living in rural areas, 32.4 percent of the population living in small cities, and 30.2 percent of the population living in big cities found heroin very easy or fairly easy to procure.

''(4) Studies show a high correlation between drug use, availability of drugs, and violence.

''(5) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 persons using illegal drugs were 16 times more likely than nonusers to be arrested for larceny or theft, at least 14 times more likely to be arrested for driving under the influence, drunkenness, and liquor law violations, and at least 9 times more likely to be arrested for assault.

''(b) PURPOSE.—The purpose of this section is—

''(1) to educate, train, motivate, and engage key professionals to identify and intervene with children in families affected by substance abuse and to refer members of such families to appropriate programs and services in the communities of such families;

''(2) to encourage professionals to collaborate with key professional organizations representing the targeted professional groups, such as groups of educators, social workers, faith community members, and probation officers, for the purposes of developing and implementing relevant core competencies; and

''(3) to encourage professionals to develop networks to coordinate local substance abuse prevention coalitions.

''(c) PROGRAM AUTHORIZED.—The Secretary shall award grants to leading nongovernmental organizations with an expertise in aiding children of substance abusing parents or experience with community antidrug coalitions to help professionals participate in such coalitions and identify and help youth affected by familial substance abuse.

''(d) DURATION OF GRANTS.—No organization shall receive a grant under subsection (c) for more than 5 consecutive years.

''(e) APPLICATION.—Any organization desiring a grant under subsection (c) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a plan for the evaluation of the project involved, including both process and outcome evaluation, and the submission of the evaluation at the end of the project period.

''(f) USE OF FUNDS.—Grants awarded under subsection (c) shall be used to—

''(1) develop core competencies with various professional groups that the professionals can use in identifying and referring children affected by substance abuse;

''(2) widely disseminate the competencies to professionals and professional organizations through publications and journals that are widely read and respected;

''(3) develop training modules around the competencies; and

''(4) develop training modules for community coalition leaders to enable such leaders to engage professionals from identified groups at the local level in community-wide prevention and intervention efforts.

''(g) DEFINITION.—In this section, the term 'professional' includes a physician, student assistance professional, social worker, youth and family social service agency counselor, Head Start teacher, clergy, elementary and secondary school teacher, school counselor, juvenile justice worker, child care provider, or a member of any other professional group in which the members provide services to or interact with children, youth, or families.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

(c) NATIONAL INSTITUTE ON DRUG ABUSE.—Subpart 15 of part C of title IV of the Public Health Service Act (42 U.S.C. 285o et seq.) is amended by adding at the end the following:

''SEC. 464Q. NATIONAL DRUG ABUSE TREATMENT CLINICAL TRIALS NETWORK.

''(a) PROGRAM AUTHORIZED.—The Director of the Institute shall establish a National Drug Abuse Treatment Clinical Trials Network (referred to in this section as the 'Network'), and provide support to such Network, to conduct large scale drug abuse treatment studies in community settings using broadly diverse patient populations.

''(b) ACTIVITIES OF NETWORK.—The Network described in subsection (a) shall use the support provided under subsection (a) to—

''(1) conduct coordinated, multisite, clinical trials of behavioral and pharmacological approaches and combined therapies for drug abuse and addiction;

''(2) conduct a research practice initiative to—

''(A) identify factors that affect successful adoption of new treatments in order to transport research findings into real-life practice; and

''(B) rapidly and efficiently disseminate scientific findings to the field and to communities in need.

''(c) MEMBERS OF NETWORK.—The Network described in subsection (a) shall consist of research and training centers that are linked with community-based treatment programs that represent a diversity of treatment settings and patient populations in the regions of such centers.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.''.

(d) SURVEY.—Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

''SEC. 247. SURVEYS.

''The results of any federally funded survey under this Act shall be made available in at least a preliminary format to the public not later than 1 year after the date on which any such survey is complete.''.

(e) PRACTICE/RESEARCH COLLABORATIVES.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106-310), is amended by adding the following:

''SEC. 506C. PRACTICE/RESEARCH COLLABORATIVES.

''(a) IN GENERAL.—The Secretary shall award grants, cooperative agreements, or contracts to public or private nonprofit entities for the purpose of assisting local communities and regions within States in improving the quality of substance abuse treatment and clinical preventive services provided in such communities and regions by increasing interaction and knowledge exchange among key community-based stakeholders, including substance abuse treatment providers, community-based organizations that provide support services to substance abusers, researchers, and policymakers including managed care plan managers and purchasers of substance abuse treatment services.

''(b) ELIGIBILITY.—To be eligible to receive a grant, contract, or cooperative agreement under this section an entity shall—

''(1) be a public or private nonprofit entity;

''(2) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

''(3) demonstrate that the entity has developed a full partnership among—

''(A) community-based treatment and prevention service providers that provide treatment services representing a variety of modalities and including both for profit and nonprofit private entities and programs that serve diverse populations;

''(B) researchers on substance abuse prevention and treatment issues;

''(C) government officials from the community involved in the grant application;

''(D) State officials involved in the funding of substance abuse prevention and treatment services;

''(E) service organizations that serve substance abusers including organizations providing health and mental health services, child welfare, law enforcement, social services, education, and other such services; and

''(F) policymakers.

''(c) USE OF FUNDS.—Amounts awarded under a grant, contract, or cooperative agreement under subsection (a) may be used to—

''(1) develop ongoing communications for the entities described in subsection (b)(3) to support the establishment of an infrastructure for community-based studies and knowledge transfer;

''(2) share evaluation and applied research results in seminars and publications;

''(3) identify areas of particularly local concern for further study;

''(4) determine, in consultation with appropriate agencies (including the National Institutes of Health), public policy issues of interest to be included in an applied research agenda;

''(5) identify and describe existing prevention and intervention strategies;

''(6) improve methods for evaluating prevention and treatment strategies;

''(7) recruit or retain substance abuse educators and practitioners to participate in specialized training programs to improve knowledge exchange and transfer;

''(8) provide for the implementation of training programs to sustain the adoption of community-based treatment study findings; and

''(9) provide public policymakers and State officials with appropriate information.

''(d) CONDITIONS.—The Secretary shall ensure that awards made under subsection (a) are distributed among urban and rural areas and address the needs of vulnerable populations including ethnic and racial minorities, women of childbearing age, individuals with sexually transmitted diseases or HIV.

''(e) DURATION OF AWARDS.—With respect to grants, cooperative agreements, or contracts awarded under this section, the period during which payments under such awards are made to the recipient may not exceed 5 years.

''(f) REPORT.—A recipient of a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary a report for each year under the grant, contract, or cooperative agreement of the grant a report that details the activities of the recipient under the grant, contract, or cooperative agreement, and makes recommendations for a research agenda for future years based on the information received from those assisted under the grant, contract, or cooperative agreement.

''(g) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 and 2004.''.

SEC. 113. ADOLESCENT THERAPEUTIC COMMUNITY TREATMENT PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Adolescent Therapeutic Community Treatment Programs Act''.

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

(1) Of the adolescents that currently need substance abuse treatment services, only 20 percent of such adolescents are receiving such services.

(2) Providing alcohol and drug treatment services reduces health care, welfare, and criminal justice costs.

(3) Studies have found that completion of substance abuse treatment services produces sustained reductions in drug use, welfare dependency, crime, and unemployment.

(4) The National Institute of Justice Arrestee Drug Abuse Monitoring drug testing program found that more than half of juvenile male arrestees tested positive for at least 1 drug in 1998.

(5) The 1999 Monitoring the Future study showed that more than half of the teenagers in the United States have tried an illicit drug by the time such teenagers finish high school, and more than 28 percent of such teenagers have tried an illicit drug by the time such teenagers are in eighth grade.

(6) According to the 1999 National Household Survey on Drug Abuse, the average age of new heroin users has dropped from 26.0 years of age in 1992 to 21.3 years of age in 1998.

(7) Studies have shown that intervention at an early stage of addiction is essential in stopping an increasingly frequent drug user from becoming an addict. Whether voluntarily or through legal or parental pressure, the sooner a drug user enters into a well-designed treatment program, the more likely such treatment is to be effective. Voluntary participation in substance abuse programs is not necessary in order to successfully treat a drug user.

(c) PROGRAM AUTHORIZED.—The Secretary shall award competitive grants to treatment providers who administer treatment programs to enable such providers to establish adolescent residential substance abuse treatment programs that provide services for individuals who are between the ages of 14 and 21.

(d) PREFERENCE.—In awarding grants under subsection (c), the Secretary shall consider the geographic location of each treatment provider and give preference to such treatment providers that are geographically located in such a manner as to provide services to addicts from non-metropolitan areas.

(e) DURATION OF GRANTS.—For awards made under subsection (c), the period during which payments are made may not exceed 5 years.

(f) RESTRICTIONS.—A treatment provider receiving a grant under subsection (c) shall not use any amount of the grant under this section for land acquisition or a construction project.

(g) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude qualifying faith-based treatment providers from receiving a grant under subsection (c).

(h) APPLICATION.—A treatment provider that desires a grant under subsection (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(i) USE OF FUNDS.—A treatment provider that receives a grant under subsection (c) shall use funds received under such grant to provide substance abuse services for adolescents, including—

(1) a thorough psychosocial assessment;

(2) individual treatment planning;

(3) a strong education component integral to the treatment regimen;

(4) life skills training;

(5) individual and group counseling;

(6) family services;

(7) daily work responsibilities; and

(8) community-based aftercare, providing 6 months of treatment following discharge from a residential facility.

(j) TREATMENT TYPE.—The Therapeutic Community model shall be used as a basis for all adolescent residential substance abuse treatment programs established under this section, which shall be characterized by—

(1) the self-help dynamic, requiring youth to participate actively in their own treatment;

(2) the role of mutual support and the therapeutic importance of the peer therapy group;

(3) a strong focus on family involvement and family strengthening;

(4) a clearly articulated value system emphasizing both individual responsibility and responsibility for the community; and

(5) an emphasis on development of positive social skills.

(k) REPORT BY PROVIDER.—Not later than 1 year after receiving a grant under this section, and annually thereafter, a treatment provider shall prepare and submit to the Secretary a report describing the services provided pursuant to this section.

(l) REPORT BY SECRETARY.—

(1) IN GENERAL.—Not later than 3 months after receiving all reports by providers under subsection (k), and annually thereafter, the Secretary shall prepare and submit a report containing information described in paragraph (2) to—

(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the United States Senate Caucus on International Narcotics Control;

(D) the Committee on Commerce of the House of Representatives;

(E) the Committee on Appropriations of the House of Representatives; and

(F) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The report described in paragraph (1) shall—

(A) outline the services provided by providers pursuant to this section;

(B) evaluate the effectiveness of such services;

(C) identify the geographic distribution of all treatment centers provided pursuant to this section, and evaluate the accessibility of such centers for addicts from rural areas and small towns; and

(D) make recommendations to improve the programs carried out pursuant to this section.

(m) DEFINITIONS.—In this section:

(1) ADOLESCENT RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM.—The term ''adolescent residential substance abuse treatment program'' means a program that provides a regimen of individual and group activities, lasting ideally not less than 12 months, in a community-based residential facility that provides comprehensive services tailored to meet the needs of adolescents and designed to return youth to their families in order that such youth may become capable of enjoying and supporting positive, productive, drug-free lives.

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

(3) THERAPEUTIC COMMUNITY.—The term ''Therapeutic Community'' means a highly structured residential treatment facility that—

(A) employs a treatment methodology;

(B) relies on self-help methods and group process, a view of drug abuse as a disorder affecting the whole person, and a comprehensive approach to recovery;

(C) maintains a strong educational component; and

(D) carries out activities that are designed to help youths address alcohol or other drug abuse issues and learn to act in their own best interests, as well as in the best interests of their peers and families.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $21,000,000 for fiscal year 2002;

(2) $42,000,000 for fiscal year 2003;

(3) $63,000,000 for fiscal year 2004;

(4) $84,000,000 for fiscal year 2005; and

(5) $105,000,000 for fiscal year 2006.

SEC. 114. RESIDENTIAL TREATMENT PROGRAM IN FEDERAL PRISONS.

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

(1) In April 2000, there were more than 140,000 inmates in the Federal prison system.

(2) In April 2000, nearly 30 percent of Federal inmates were serving sentences ranging between 5 and 10 years, and just over 58 percent of such inmates, or 61,547 persons, were serving time for a drug related offense.

(3) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 illicit drug users—

(A) were 16 times more likely than nonusers to be arrested and booked for larceny or theft;

(B) were more than 14 times more likely to be arrested and booked for driving under the influence, drunkenness, and liquor law violations; and

(C) were more than 9 times more likely to be arrested and booked for assault.

(4) According to the Federal Bureau of Investigation's Uniform Crime Reports, drugs

are one of the main factors leading to the total number of all homicides.

(5) In a 1999 study, the Bureau of Prisons reported that—

(A) offenders who completed a residential drug abuse treatment program and had been released for a minimum of 6 months were less likely to be arrested and use illegal drugs than inmates who did not participate in such program; and

(B) only 3.3 percent of such offenders who completed such program were likely to be arrested within the first 6 months that such offenders were in the community.

(b) PURPOSE.—The purpose of this section is to increase residential drug abuse treatment units in Federal prisons to reduce the number of criminal offenders who are rearrested or who use illegal drugs after release from prison.

(c) PROGRAM AUTHORIZED.—The Director of the Federal Bureau of Prisons shall use funds made available under this section to establish residential drug abuse treatment units in Federal prisons.

(d) REQUIREMENTS.—A residential drug abuse treatment unit that receives funds under this section shall—

(1) maintain not less than 1,000 hours of activities during a 1-year period;

(2) maintain a staff of such unit in which there is not more than 1 staff member per 12 inmates;

(3) provide intensive treatment activities for all inmates in the residential drug treatment program, including individual and group therapy, specialty seminars, self improvement group counseling, and education, work skills training, and other programs; and

(4) have frequent, regular, and random drug testing for inmates and staff.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2002 and 2003.

SEC. 115. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) STUDY OF HEROIN USE IN THE UNITED STATES.—

(1) IN GENERAL.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Counter-Drug Technology Assessment Center (CTAC) of the Office of National Drug Control Policy shall carry out a study on the number of individuals in the United States who engaged in sustained use of heroin.

(2) BASIS FOR STUDY.—The study under paragraph (1) shall be based on the study entitled ''A Plan for Estimated the Number of 'Hardcore' Drug Users in the United States''.

(b) COUNTER-DRUG TECHNOLOGY INITIATIVES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy shall—

(1) conduct outreach for purposes of reducing duplication of activities among Federal, State, and local entities regarding counterdrug technologies;

(2) develop and implement mechanisms for monitoring and coordinating such activities; and

(3) assist in the transfer of such technologies to State and local law enforcement agencies under the Technology Transfer Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy for fiscal year 2002 the following:

(1) $15,000,000 for purposes of the study required by subsection (a).

(2) $15,000,000 for purposes of activities under subsection (b).

SEC. 116. SENSE OF CONGRESS ON RESEARCH BY THE NATIONAL INSTITUTES OF HEALTH.

It is the sense of Congress that the National Institutes of Health should work with or collaborate with experts from private industry to promote research regarding pharmacological options that may be employed to support drug treatment efforts.

Subtitle B—Drug-Free Communities

SEC. 121. FINDINGS.

Congress makes the following findings:

(1) A child that has a positive relationship with both parents is less likely to use illegal drugs.

(2) Family activities, such as eating dinners together and spending quality time together, can reduce the risk that a child engaged by such activities will use illegal drugs.

(3) Most parents today work and have little opportunity to spend quality time with their children.

(4) Many families are headed by single parents who work all day and do not have enough time to spend with their children.

(5) The 1999 Parent's Resource Institute for Drug Education study (referred to in this section as the ''PRIDE study'') reported that more than 4,000,000 students who are between the ages 11 and 18 used drugs regularly, and more than 1,000,000 of such students used an illegal drug every day.

(6) The PRIDE study found that students with parents who talked to them about drug use had a 37 percent lower drug use rate than students with parents who did not talk to them about drug use.

(7) The 1999 Monitoring the Future study found that nearly 55 percent of high school seniors in the United States had used an illicit drug in the past month.

(8) A 1999 Mellman Group study found that—

(A) 56 percent of the population in the United States believed that drug use was increasing in 1999;

(B) 92 percent of the population viewed illegal drug use as a serious problem in the United States; and

(C) 73 percent of the population viewed illegal drug use as a serious problem in their communities.

SEC. 122. DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

(a) EXTENSION AND INCREASE OF PROGRAM.—Section 1024(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(6) $46,000,000 for fiscal year 2003;

''(7) $48,500,000 for fiscal year 2004;

''(8) $51,000,000 for fiscal year 2005;

''(9) $53,500,000 for fiscal year 2006; and

''(10) $56,000,000 for fiscal year 2007.''.

(b) EXTENSION OF LIMITATION ON ADMINISTRATIVE COSTS.—Section 1024(b) of that Act (21 U.S.C. 1524(b)) is amended by adding at the end the following new paragraph:

''(6) 8 percent for each of fiscal years 2003 through 2007.''.

(c) MODIFICATION OF ELIGIBILITY CRITERIA OR AMOUNT FOR GRANT RENEWALS.—Section 1032 of that Act (21 U.S.C. 1532) is amended by adding at the end the following new subsection:

''(c) MODIFICATION OF ELIGIBILITY CRITERIA OR AMOUNT FOR GRANT RENEWALS.—The Administrator may not implement any modification in the criteria for eligibility for the renewal of a grant under this section, or any modification in grant amount upon renewal of a grant under this section, until one year after the date on which the Administrator notifies the recipient of the grant concerned of such modification.''.

(d) SOURCE OF FUNDS FOR EVALUATION OF PROGRAM BY ADMINISTRATOR.—Section 1033(b) of that Act (21 U.S.C. 1533(b)) is amended by adding at the end the following new paragraph:

''(3) SOURCE OF FUNDS FOR EVALUATION OF PROGRAM.—Amounts for activities under paragraph (2)(B) shall be derived from amounts under section 1024(a) that are available under section 1024(b) for administrative costs.''.

Subtitle C—Drug-Free Families

SEC. 131. SHORT TITLE.

This subtitle may be cited as the ''Drug-Free Families Act of 2001''.

SEC. 132. FINDINGS.

Congress makes the following findings:

(1) The National Institute on Drug Abuse estimates that in 1962, less than 1 percent of the nation's adolescents had ever tried an illicit drug. By 1979, drug use among young people had escalated to the highest levels in history: 34 percent of adolescents (ages 12–17), 65 percent of high school seniors (age 18), and 70 percent of young adults (ages 18–25) had used an illicit drug in their lifetime.

(2) Drug use among young people was not confined to initial trials. By 1979, 16 percent of adolescents, 39 percent of high school seniors, and 38 percent of young adults had used an illicit drug in the past month. Moreover, 1 in 9 high school seniors used marijuana daily.

(3) In 1979, the year the largest number of seniors used marijuana, their belief that marijuana could hurt them was at its lowest (35 percent) since surveys have tracked these measures.

(4) Three forces appeared to be driving this escalation in drug use among children and young adults. Between 1972 and 1978, a nationwide political campaign conducted by drug legalization advocates persuaded 11 State legislatures to ''decriminalize'' marijuana. (Many of those States have subsequently ''recriminalized'' the drug.) Such legislative action reinforced advocates' assertion that marijuana was ''relatively harmless.''

(5) The decriminalization effort gave rise to the emergence of ''head shops'' (shops for ''heads,'' or drug users—''coke heads,'' ''pot heads,'' ''acid heads,'' etc.) which sold drug paraphernalia—an array of toys, implements, and instructional pamphlets and booklets to enhance the use of illicit drugs. Some 30,000 such shops were estimated to be doing business throughout the nation by 1978.

(6) In the absence of Federal funding for drug education then, most of the drug education materials that were available proclaimed that few illicit drugs were addictive and most were ''less harmful'' than alcohol and tobacco and therefore taught young people how to use marijuana, cocaine, and other illicit drugs ''responsibly''.

(7) Between 1977 and 1980, 3 national parent drug-prevention organizations—National Families in Action, PRIDE, and the National Federation of Parents for Drug-Free Youth (now called the National Family Partnership)—emerged to help concerned parents form some 4,000 local parent prevention groups across the nation to reverse all of these trends in order to prevent children from using drugs. Their work created what has come to be known as the parent drug-prevention movement, or more simply, the parent movement. This movement set 3 goals: to prevent the use of any illegal drug, to persuade those who had started using drugs to stop, and to obtain treatment for

those who had become addicted so that they could return to drug-free lives.

(8) The parent movement pursued a number of objectives to achieve these goals. First, it helped parents educate themselves about the harmful effects of drugs, teach that information to their children, communicate that they expected their children not to use drugs, and establish consequences if children failed to meet that expectation. Second, it helped parents form groups with other parents to set common age-appropriate social and behavioral guidelines to protect their children from exposure to drugs. Third, it encouraged parents to insist that their communities reinforce parents' commitment to protect children from drug use.

(9) The parent movement stopped further efforts to decriminalize marijuana, both in the States and at the Federal level.

(10) The parent movement worked for laws to ban the sale of drug paraphernalia. If drugs were illegal, it made no sense to condone the sale of toys and implements to enhance the use of illegal drugs, particularly when those products targeted children. As town, cities, counties, and States passed anti-paraphernalia laws, drug legalization organizations challenged their Constitutionality in Federal courts until the early 1980's, when the United States Supreme Court upheld Nebraska's law and established the right of communities to ban the sale of drug paraphernalia.

(11) The parent movement insisted that drug-education materials convey a strong no-use message in compliance with both the law and with medical and scientific information that demonstrates that drugs are harmful, particularly to young people.

(12) The parent movement encouraged others in society to join the drug prevention effort and many did, from First Lady Nancy Reagan to the entertainment industry, the business community, the media, the medical community, the educational community, the criminal justice community, the faith community, and local, State, and national political leaders.

(13) The parent movement helped to cause drug use among young people to peak in 1979. As its efforts continued throughout the next decade, and as others joined parents to expand the drug-prevention movement, between 1979 and 1992 these collaborative prevention efforts contributed to reducing monthly illicit drug use by two-thirds among adolescents and young adults and reduced daily marijuana use among high-school seniors from 10.7 percent to 1.9 percent. Concurrently, both the parent movement and the larger prevention movement that evolved throughout the 1980's, working together, increased high school seniors' belief that marijuana could hurt them, from 35 percent in 1979 to 79 percent in 1991.

(14) Unfortunately, as drug use declined, most of the 4,000 volunteer parents groups that contributed to the reduction in drug use disbanded, having accomplished the job they set out to do. But the absence of active parent groups left a vacuum that was soon filled by a revitalized drug-legalization movement. Proponents began advocating for the legalization of marijuana for medicine, the legalization of all Schedule I drugs for medicine, the legalization of hemp for medicinal, industrial and recreational use, and a variety of other proposals, all designed to ultimately attack, weaken, and eventually repeal the nation's drug laws.

(15) Furthermore, legalization proponents are also beginning to advocate for treatment that maintains addicts on the drugs to which they are addicted (heroin maintenance for heroin addicts, controlled drinking for alcoholics, etc.), for teaching school children to use drugs ''responsibly,'' and for other measures similar to those that produced the drug epidemic among young people in the 1970's.

(16) During the 1990's, the message embodied in all of this activity has once again driven down young people's belief that drugs can hurt them. As a result, the reductions in drug use that occurred over 13 years reversed in 1992, and adolescent drug use has more than doubled.

(17) In 1970, 40.5 percent of women in the workforce were married. By 1997, that percentage has climbed to 61.6 percent, meaning fewer parents have time to volunteer. Many families are headed by single parents. In some families no parents are available, and grandparents, aunts, uncles, or foster parents are raising the family's children.

(18) Recognizing that these challenges make it much more difficult to reach parents today, several national parent and family drug-prevention organizations have formed the Parent Collaboration to address these issues in order to build a new parent and family movement to prevent drug use among children.

(19) Motivating parents and parent groups to coordinate with local community antidrug coalitions is a key goal of the Parent Collaboration, as well as coordinating parent and family drug-prevention efforts with Federal, State, and local governmental and private agencies and political, business, medical and scientific, educational, criminal justice, religious, and media and entertainment industry leaders.

SEC. 133. PURPOSES.

The purposes of this subtitle are to—

(1) build a movement to help parents and families prevent drug use among their children and adolescents;

(2) help parents and families reduce drug abuse and drug addiction among adolescents who are already using drugs, and return them to drug-free lives;

(3) increase young people's perception that drugs are harmful to their health, well-being, and ability to function successfully in life;

(4) help parents and families educate society that the best way to protect children from drug use and all of its related problems is to convey a clear, consistent, no-use message;

(5) strengthen coordination, cooperation, and collaboration between parents and families and all others who are interested in protecting children from drug use and all of its related problems;

(6) help parents strengthen their families, neighborhoods, and school communities to reduce risk factors and increase protective factors to ensure the healthy growth of children; and

(7) provide resources in the fiscal year 2002 Federal drug control budget for a grant to the Parent Collaboration to conduct a national campaign to mobilize today's parents and families through the provision of information, training, technical assistance, and other services to help parents and families prevent drug use among their children and to build a new parent and family drug-prevention movement.

SEC. 134. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATIVE COSTS.—The term ''administrative costs'' means those costs that the assigned Federal agency will incur to administer the grant to the Parent Collaboration.

(2) NO-USE MESSAGE.—The term ''no-use message'' means a message advocating no use of any illegal drug and no illegal use of any legal drug or substance that is sometimes used illegally, such as prescription drugs, inhalants, and alcohol and tobacco for children and adolescents under the legal purchase age.

(3) PARENT COLLABORATION.—The term ''Parent Collaboration'' means a legal entity, that is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and is created by 3 or more groups that—

(A) have a primary mission of helping parents prevent drug use, drug abuse, and drug addiction among their children, their families, and their communities;

(B) have carried out this mission for a minimum of 5 consecutive years; and

(C) base their drug-prevention missions on the foundation of a strong, no-use message in compliance with international, Federal, State, and local treaties and laws that prohibit the possession, production, cultivation, distribution, sale, and trafficking in illegal drugs;

in order to build a new parent and family movement to prevent drug use among children and adolescents.

SEC. 135. ESTABLISHMENT OF DRUG-FREE FAMILIES SUPPORT PROGRAM.

(a) IN GENERAL.—The Attorney General shall make a grant to the Parents Collaboration to conduct a national campaign to build a new parent and family movement to help parents and families prevent drug abuse among their children.

(b) TERMINATION.—The period of the grant under this section shall be 5 years.

SEC. 136. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle, $5,000,000 for each of fiscal years 2002 through 2006 for a grant to the Parent Collaboration to conduct the national campaign to mobilize parents and families.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of the total amount made available under subsection (a) in each fiscal year may be used to pay administrative costs of the Parent Collaboration.

Subtitle D—National Community Antidrug Coalition Institute

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''National Community Antidrug Coalition Institute Act of 2001''.

SEC. 142. ESTABLISHMENT.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy may make grants to an organization to provide for the establishment of a National Community Antidrug Coalition Institute.

(b) REQUIREMENTS.—The organization receiving a grant under subsection (a) shall—

(1) be a national nonprofit organization that represents, provides technical assistance and training to, and has special expertise and broad, national-level experience in community anti-drug coalitions; and

(2) establish a National Community Antidrug Coalition Institute that will—

(A) provide education, training, and technical assistance for coalition leaders and community teams;

(B) conduct evaluation, testing, and diffusion of tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes; and

(C) bridge the gap between research and practice by translating knowledge from research into practical information.

(c) DISCHARGE OF RESPONSIBILITIES.—The Director may employ such staff and enter into such contracts and agreements, including agreements or memoranda of understanding with other governmental agencies, as the Director considers appropriate for purposes of making grants under this section and otherwise carrying out the responsibilities of the Director under this subtitle.

SEC. 143. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $2,000,000 for each of fiscal years 2002 and 2003

for purposes of making grants as provided in section 142.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—National Guard Matters

SEC. 201. MINIMUM NUMBER OF MEMBERS OF THE NATIONAL GUARD ON DUTY TO PERFORM DRUG INTERDICTION OR COUNTER-DRUG ACTIVITIES.

(a) FINDINGS.—Congress makes the following findings regarding members of the National Guard who participate in drug interdiction and counter-drug activities of the National Guard:

(1) Such members have significantly higher rates of attendance at inactive duty training and annual training than members of the National Guard who do not participate in such activities.

(2) Such members attend significantly more military training than members of the National Guard who do not participate in such activities, thereby putting such members at a higher state of military readiness.

(3) Such members attend significantly more non-military training designed to enhance support of law enforcement and community-based agencies than members of the National Guard who do not participate in such activities.

(4) Such members are above-average soldiers and airmen who maintain a high level of individual combat readiness.

(5) This high level of individual combat readiness has a positive effect on individual combat readiness in the National Guard as a whole and contributes to the success of unit training and evaluations and unit readiness.

(6) Such members evoke positive comments regarding their qualifications and performance in the National Guard.

(b) MINIMUM NUMBER OF MEMBERS ON DUTY.—Section 112(f) of title 32, United States Code, is amended—

(1) by striking ''END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members'' and inserting ''MINIMUM NUMBER OF MEMBERS ON DUTY PERFORMING ACTIVITIES.—(1) At the end of a fiscal year there may not be less than 4,000 members'';

(2) by striking paragraph (2); and

(3) by adding at the end the following new paragraph (2):

''(2) The President may waive the minimum in paragraph (1) in the event that the armed forces are involved in hostilities or that imminent involvement by the armed forces in hostilities is clearly indicated by the circumstances.''.

(c) APPLICABILITY.—The amendments made by subsection (b) shall take effect on October 1, 2001, and shall apply with respect to fiscal years ending after that date.

SEC. 202. NATIONAL GUARD COUNTERDRUG SCHOOLS.

(a) AUTHORITY TO OPERATE.—Under such regulations as the Secretary of Defense may prescribe, the Chief of the National Guard Bureau may establish and operate not more than five schools (to be known generally as ''National Guard counterdrug schools'') for the provision by the National Guard of training in drug interdiction and counter-drug activities, and drug demand reduction activities, to the personnel of the following:

(1) Federal agencies.

(2) State and local law enforcement agencies.

(3) Community-based organizations engaged in such activities.

(4) Other non-Federal governmental and private entities and organizations engaged in such activities.

(b) COUNTERDRUG SCHOOLS SPECIFIED.—The National Guard counterdrug schools operated under the authority in subsection (a) are as follows:

(1) The National Interagency Civil-Military Institute (NICI), San Luis Obispo, California.

(2) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT), St. Petersburg, Florida.

(3) The Midwest Counterdrug Training Center (MCTC), to be established in Johnston, Iowa.

(4) The Regional Counterdrug Training Academy (RCTA), Meridian, Mississippi.

(5) The Northeast Regional Counterdrug Training Center (NCTC), Fort Indiantown Gap, Pennsylvania.

(c) USE OF NATIONAL GUARD PERSONNEL.—(1) To the extent provided for in the State drug interdiction and counter-drug activities plan of a State in which a National Guard counterdrug school is located, personnel of the National Guard of that State who are ordered to perform full-time National Guard duty authorized under section 112(b) of that title 32, United States Code, may provide training referred to in subsection (a) at that school.

(2) In this subsection, the term ''State drug interdiction and counter-drug activities plan'', in the case of a State, means the current plan submitted by the Governor of the State to the Secretary of Defense under section 112 of title 32, United States Code.

(d) ANNUAL REPORTS ON ACTIVITIES.—(1) Not later than February 1, 2002, and annually thereafter, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools.

(2) Each report under paragraph (1) shall set forth the following:

(A) The amount made available for each National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

(B) A description of the activities of each National Guard counterdrug school during the year preceding the year in which such report is submitted.

(3) The report under paragraph (1) in 2002 shall set forth, in addition to the matters described in paragraph (2), a description of the activities relating to the establishment of the Midwest Counterdrug Training Center in Johnston, Iowa.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated for the Department of Defense for the National Guard for fiscal year 2002, $25,000,000 for purposes of the National Guard counterdrug schools in that fiscal year.

(2) The amount authorized to be appropriated by paragraph (1) is in addition to any other amount authorized to be appropriated for the Department of Defense for the National Guard for fiscal year 2002.

(f) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by subsection (e)(1)—

(A) $4,000,000 shall be available for the National Interagency Civil-Military Institute, San Luis Obispo, California;

(B) $8,000,000 shall be available for the Multi-Jurisdictional Counterdrug Task Force Training, St. Petersburg, Florida;

(C) $3,000,000 shall be available for the Midwest Counterdrug Training Center, Johnston, Iowa;

(D) $5,000,000 shall be available for the Regional Counterdrug Training Academy, Meridian, Mississippi; and

(E) $5,000,000 shall be available for the Northeast Regional Counterdrug Training Center, Fort Indiantown Gap, Pennsylvania.

(2) Amounts available under paragraph (1) shall remain available until expended.

(g) FUNDING FOR FISCAL YEARS AFTER FISCAL YEAR 2002.—(1) The budget of the President that is submitted to Congress under section 1105 of title 31, United States Code, for any fiscal year after fiscal year 2002 shall set forth as a separate budget item the amount requested for such fiscal year for the National Guard counterdrug schools.

(2) It is the sense of Congress that—

(A) the amount authorized to appropriated for the National Guard counterdrug schools for any fiscal year after fiscal year 2002 should not be less than the amount authorized to be appropriated for those schools for fiscal year 2002 by subsection (e)(1), in constant fiscal year 2002 dollars; and

(B) the amount made available to each National Guard counterdrug school for any fiscal year after fiscal year 2002 should not be less than the amount made available for such school for fiscal year 2002 by subsection (f)(1), in constant fiscal year 2002 dollars, except that the amount made available for the Midwest Counterdrug Training School should not be less than $5,000,000, in constant fiscal year 2002 dollars.

Subtitle B—Customs Matters

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Customs Authorization Act of 2001''.

PART I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) are amended to read as follows:

''(A) $1,029,608,384 for fiscal year 2002.

''(B) $1,111,450,668 for fiscal year 2003.''.

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)) are amended to read as follows:

''(i) $1,251,794,435 for fiscal year 2002.

''(ii) $1,348,676,435 for fiscal year 2003.''.

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)) are amended to read as follows:

''(A) $229,001,000 for fiscal year 2002.

''(B) $176,967,000 for fiscal year 2003.''.

(d) SUBMISSION OF BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

''(3) By no later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate the budget request submitted to the Secretary of the Treasury estimating the amount of funds for that fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.

(e) AUTHORIZATION OF APPROPRIATIONS FOR MODERNIZING CUSTOMS SERVICE COMPUTER SYSTEMS.—

(1) ESTABLISHMENT OF AUTOMATION MODERNIZATION WORKING CAPITAL FUND.—There is established within the United States Customs Service an Automation Modernization Working Capital Fund (in this section referred to as the ''Fund''). The Fund shall consist of the amounts authorized to be appropriated under paragraph (2) and shall be available as follows:

(A) To implement a program for modernizing the Customs Service computer systems.

(B) To maintain the existing computer systems of the Customs Service until a modernized computer system is fully implemented.

(C)For related computer system modernization activities of the Customs Service.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Fund $242,000,000 for fiscal year 2002 and $336,000,000 for fiscal year 2003. The amounts authorized to be appropriated under this paragraph shall remain available until expended.

(3) REPORT AND AUDIT.—

(A) REPORT.—The Commissioner of Customs shall, not later than March 31 and September 30 of each year, submit to the Comptroller General of the United States, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate a report on the progress being made in the modernization of the Customs Service computer systems. Each such report shall—

(i) include explicit criteria used to identify, evaluate, and prioritize investments for computer systems modernization planned for the Customs Service for each of fiscal years 2002 through 2006;

(ii) provide a schedule for mitigating any deficiencies identified by the Comptroller General and for developing and implementing all computer systems modernization projects;

(iii) provide a plan for expanding the utilization of private sector sources for the development and integration of computer systems; and

(iv) contain timely schedules and resource allocations for implementing the modernization of the Customs Service computer systems.

(B) AUDIT.—Not later than 30 days after a report described in subparagraph (A) is received, the Comptroller General shall audit the report and shall provide the results of the audit to the Commissioner of Customs, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and the Committee on Appropriations and the Committee on Finance of the Senate.

(C) CESSATION OF REPORT.—No report is required under this paragraph after September 30, 2006.

SEC. 222. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS; INTERNAL MANAGEMENT IMPROVEMENTS.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, $118,936,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, and for internal management improvements as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following amounts shall be available:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(T) $2,500,000 for a demonstration project for passive detection technology.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following amounts shall be available:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following amounts shall be available:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(4) INTERNAL MANAGEMENT IMPROVEMENTS.—For internal management improvements, the following amounts shall be available:

(A) $2,500,000 for automated systems for management of internal affairs functions.

(B) $700,000 for enhanced internal affairs file management systems.

(C) $2,700,000 for enhanced financial asset management systems.

(D) $6,100,000 for enhanced human resources information system to improve personnel management.

(E) $2,700,000 for new data management systems for improved performance analysis, internal and external reporting, and data analysis.

(F) $1,700,000 for automation of the collection of key export data as part of the implementation of the Automated Export system.

(b) TEXTILE TRANSSHIPMENT.—Of the amounts made available for fiscal years 2002 and 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 221(a) of this Act, $3,364,435 shall be available for each such fiscal year for textile transshipment enforcement.

(c) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 221(a) of this Act, $9,923,500 shall be available for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(d) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) is technologically equivalent to the equipment described in subsection (a) and can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 25 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1)

for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 223. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.

(a) IN GENERAL.—Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)), as amended by section 221(a) of this Act, $181,864,800 for fiscal year 2002 (including $5,673,600 until expended for investigative equipment) and $230,983,340 for fiscal year 2003 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border, and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized under paragraphs (1) and (2).

(4) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(5) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff positions, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(6) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(7) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(8) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(9) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(10) The costs incurred as a result of the increase in personnel hired pursuant to this section.

(b) RELOCATION OF PERSONNEL.—Notwithstanding any other provision of this section, the Commissioner of Customs may reduce the amount of additional personnel provided for in any of paragraphs (1) through (9) of subsection (a) by not more than 25 percent, if the Commissioner of Customs makes a corresponding increase in the personnel provided for in one or more of such paragraphs (1) through (9).

(c) NET INCREASE.—In this section, the term ''net increase'' means an increase in the number of employees in each position described in this section over the number of employees in each such position that was provided for in fiscal year 2000.

SEC. 224. AGENT ROTATIONS; ELIMINATION OF BACKLOG OF BACKGROUND INVESTIGATIONS.

Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)), as amended by section 221(a) of this Act, $16,000,000 for fiscal year 2002 (including $10,000,000 until expended) and $6,000,000 for fiscal year 2003 shall be available to—

(1) provide additional funding to clear the backlog of existing background investigations and to provide for background investigations during extraordinary recruitment activities of the agency; and

(2) provide for the interoffice transfer of up to 100 special agents, including costs related to relocations, between the Office of Investigations and Office of Internal Affairs, at the discretion of the Commissioner of Customs.

SEC. 225. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)), as amended by section 221(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs Service aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) as amended by section 221(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 226. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

(a) IN GENERAL.—As part of the annual performance plan for each of fiscal years 2002 and 2003, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall evaluate the benefits of the activities authorized to be carried out pursuant to sections 222 through 225 of this Act.

(b) ENFORCEMENT PERFORMANCE MEASURES.—The Commissioner of Customs is authorized to contract for the review and assessment of enforcement performance goals and indicators required by section 1115 of title 31, United States Code, with experts in the field of law enforcement, from academia, and from the research community. Any contract for review or assessment conducted pursuant to this subsection shall provide for recommendations of additional measures that would improve the enforcement strategy and activities of the Customs Service.

(c) REPORT TO CONGRESS.—The Commissioner of Customs shall submit any assessment, review, or report provided for under this section to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 227. REPORT ON INTELLIGENCE REQUIREMENTS.

The Commissioner of Customs shall, not later than one year of the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the following:

(1) An assessment of the intelligence-gathering and information-gathering capabilities and needs of the Customs Service.

(2) An assessment of the impact of any limitations on the intelligence-gathering and information-gathering capabilities necessary for adequate enforcement of the customs laws of the United States and other laws enforced by the Customs Service.

(3) The Commissioner's recommendations for improving the intelligence-gathering and information-gathering capabilities of the Customs Service.

PART II—CUSTOMS MANAGEMENT

SEC. 231. TERM AND SALARY OF THE COMMISSIONER OF CUSTOMS.

(a) TERM.—

(1) GENERAL REQUIREMENTS.—The first section of the Act entitled ''An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury'', approved March 3, 1927 (19 U.S.C. 2071), is amended—

(A) by striking ''There shall be'' and inserting ''(a) IN GENERAL.—There shall be'';

(B) in the second sentence—

(i) by inserting ''for a term of 5 years'' after ''Senate'';

(ii) by striking ''and'' at the end of paragraph (2);

(iii) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) have demonstrated ability in management.''; and

(C) by adding at the end the following:

''(b) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed only for the remainder of that term.

''(c) REMOVAL.—The Commissioner may be removed at the will of the President.

''(d) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.''.

(2) CURRENT OFFICE HOLDER.— In the case of an individual serving as the Commissioner of Customs on the date of the enactment of this Act, who was appointed to such position before such date, the 5-year term required by the first section of the Act entitled ''An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury'', as amended by this section, shall begin as of the date of such appointment.

(b) SALARY.—

(1) IN GENERAL.—

(A) Section 5315 of title 5, United States Code, is amended by striking the following item:

''Commissioner of Customs, Department of the Treasury.''.

(B) Section 5314 of title 5, United States Code, is amended by inserting at the end the following item:

''Commissioner of Customs, Department of the Treasury.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

SEC. 232. INTERNAL COMPLIANCE.

(a) ESTABLISHMENT OF INTERNAL COMPLIANCE PROGRAM.—The Commissioner of Customs shall—

(1) establish, within the Office of Internal Affairs, a program of internal compliance designed to enhance the performance of the basic mission of the Customs Service to ensure compliance with all applicable laws and, in particular, with the implementation of title VI of the North American Free Trade Agreement Implementation Act (commonly referred to as the ''Customs Modernization Act'');

(2) institute a program of ongoing self-assessment and conduct a review on an annual basis of the performance of all core functions of the Customs Service;

(3) identify deficiencies in the current performance of the Customs Service with respect to commercial operations, enforcement, and internal management and propose specific corrective measures to address such concerns; and

(4) not later than 6 months after the date of the enactment of this Act, and annually thereafter, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the programs and reviews conducted under this subsection.

(b) EVALUATION AND REPORT ON BEST PRACTICES.—The Commissioner of Customs shall, as part of the development of an improved system of internal compliance, initiate a review of current best practices in internal compliance programs among government agencies and private sector organizations and, not later than 18 months after the date of the enactment of this Act, report on the results of the review to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives.

(c) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of the Treasury shall review and audit the implementation of the programs described in subsection (a) as part of the Inspector General's report required under the Inspector General Act of 1978 (5 U.S.C. App).

SEC. 233. REPORT ON PERSONNEL FLEXIBILITY.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives a report on the Commissioner's recommendations for modifying existing personnel rules to permit more effective management of the resources of the Customs Service and for improving the ability of the Customs Service to fulfill its mission. The report shall also include an analysis of why the flexibility provided under existing personnel rules is insufficient to meet the needs of the Customs Service.

SEC. 234. REPORT ON PERSONNEL ALLOCATION MODEL.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the following:

(1) The resources and personnel requirements under the personnel allocation model under development in the Customs Service.

(2) The implementation of the personnel allocation model.

SEC. 235. REPORT ON DETECTION AND MONITORING REQUIREMENTS ALONG THE SOUTHERN TIER AND NORTHERN BORDER.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the requirements of the Customs Service for counterdrug detection and monitoring of the arrival zones along the southern tier and northern border of the United States. The report shall include an assessment of—

(1) the performance of existing detection and monitoring equipment, technology, and personnel;

(2) any gaps in radar coverage of the arrival zones along the southern tier and northern border of the United States; and

(3) any limitations imposed on the enforcement activities of the Customs Service as a result of the reliance on detection and monitoring equipment, technology, and personnel operated under the auspices of the Department of Defense.

PART III—MARKING VIOLATIONS

SEC. 241. CIVIL PENALTIES FOR MARKING VIOLATIONS.

Section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''Any person'' and inserting ''(1) IN GENERAL.—Any person'';

(3) by moving the remaining text 2 ems to the right; and

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

''(2) CIVIL PENALTIES.—Any person who defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under this section shall be liable for a civil penalty of not more than $10,000 for each violation. The civil penalty imposed under this subsection shall be in addition to any marking duties owed under subsection (i).''.

Subtitle C—Miscellaneous

SEC. 251. TETHERED AEROSTAT RADAR SYSTEM.

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

(1) Drug traffickers exploit openings in the United States detection and monitoring network. Tethered Aerostat Radar Systems (TARS) are a critical element in closing potential routes for drug smuggling.

(2) The Tethered Aerostat Radar System, a network of 11 radar sites, serves as an important component of the counterdrug mission of the United States by providing low altitude radar surveillance, detection, and monitoring capabilities to military and law enforcement entities. Failure to operate the TARS system results in a degraded counterdrug capability for the United States.

(3) Most of the illicit drugs consumed in the United States enter the country over the Southwest, Gulf of Mexico, or Florida borders. The United States will not have complete coastal radar coverage to combat counterdrug threats unless the entire Tethered Aerostat Radar System network is standardized and maintained, including the Tethered Aerostat Radar System sites in Matagorda, Texas, Morgan City, Louisiana, and Horseshoe Beach, Florida.

(4) The Department of Defense, the lead Federal agency for detection and monitoring, is responsible for fulfilling the surveillance, detection, and monitoring mission in support of counterdrug operations.

(5) The Department of Defense's current budget allocation for the Tethered Aerostat Radar System is inadequate. At present, 3 sites are not in operation because of the expiration of their life cycle.

(b) RESPONSIBILITY FOR TETHERED AEROSTAT RADAR SYSTEM.—The Secretary of Defense shall take all necessary actions to ensure that the 11 sites that comprise the Tethered Aerostat Radar System network are placed under the policy direction of the Drug Enforcement Policy and Support office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

(c) LIMITATION ON TRANSFER.—The Secretary shall cease all activities relating to the transfer of responsibility for the Tethered Aerostat Radar System program to any entity outside the Department of Defense.

(d) REPORT ON STATUS.—(1) The Secretary shall annually submit to the congressional defense committees and the United States Senate Caucus on International Narcotics Control a report on the status of the Tethered Aerostat Radar System network.

(2) In this subsection, the term ''congressional defense committees'' means the following:

(A) The Committees on Armed Services and Appropriations of the Senate.

(B) The Committees on Armed Services and Appropriations of the House of Representatives.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated for the requirements of the 11-site network of the Tethered Aerostat Radar System, including standardization of the sites located along the Gulf of Mexico of the United States, amounts as follows:

(1) For fiscal year 2002, $76,000,000.
(2) For fiscal year 2003, $48,500,000.
(2) For fiscal year 2004, $40,500,000.
(3) For fiscal year 2005, $44,700,000.

By Mr. BINGAMAN:

S. 90. A bill authorizing funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

NANOSCIENCE AND NANOENGINEERING

Mr. BINGAMAN. Mr. President. I rise today to introduce a bill authorizing the Secretary of Energy to provide for a long term commitment in its Office of Science to the area of nanoscience and nanoengineering. This new area is of fundamental importance for maintaining our global economic leadership in energy technology as well in areas such as microchip design, space and transportation, medicines and biomedical devices. The fields of nanoscience and nanoengineering as so new and broad in their reach that no one industry can support them. They are a perfect example how we in Congress can make a difference to support our nation's technological leadership, a key element of the 21st century global economy.

The fields of nanoscience and engineering encompass the ability to create new states of matter by prepositioning the atoms that make up their structure. The physical features that nanoscale R&D will develop are on the order of about 10 nanometers or 1000 times smaller than the diameter of a human hair. What we are talking about is making materials and devices not be miniaturization, which is a top down approach. Nanoscience is the bottom up fabrication of materials, atom by atom. When you build materials at this level, amazing things begin to happen. We are talking about microchips whose features will shrink by a factor of 100 below where industry projects they will be in the year 2010. These chip features will lead to radical breakthroughs in

speed, cost and density of information storage. In the field of medicine and health, we are talking about drugs whose routes of delivery are literally at the molecular level. It will be possible to custom build proteins and other biological materials for future biomedical devices. In the field of energy efficiency, batteries and fuel cells can be built with storage capacities far exceeding our current state of the art. In the transportation industry, it will be possible to make ultra strong and light materials reducing the weight in airplanes, cars and space vehicles. All these breakthroughs in the diverse industries I have discussed will keep the United States' as a global leader in the 21st century economy.

The Department of Energy and its Office of Science are uniquely suited to support this critical research. The Office of Science has been at the forefront of conducting nanotechnology research for the past decade through its broad array of materials, physics, chemistry and biology programs. This authorization bill will carry forth four broad objectives of the Office of Science's existing nanotechnology effort, (1) attain a fundamental understanding of nanoscale phenomena, (2) achieve the ability to design bulk materials with desired properties using nanoscale manipulation, (3) study how living organisms produce materials naturally by arranging their atomic structure and implement it into the design process for nanomaterials, (4) develop experimental and computer tools with a national infrastructure to carry out nanoscience. Let me briefly comment on the fourth area in this list. The Office of Science is the nation's leader in developing and managing national user facilities across the broad range of physical sciences. It would be a natural progression for the Office of Science to develop similar user facilities to advance nanoscience. These facilities, located across the United States, will contain unique equipment and computers which will be accessible to individuals as well as multi-disciplinary teams. In the past, Office of Science national user facilities have served as crossing points between the transition from fundamental science to industrial capability. I expect that these nanoscience user facilities will serve as a similar transition point from long term fundamental research into applied industrial know-how. Accordingly, in this authorization bill I have allotted portions of the yearly budget towards developing these unique user facilities.

This bill is an important first step in a combined national nanoscience effort which will help to maintain the technological edge of our U.S. industry. I encourage my House colleagues in the Science Committee to also consider this bill with the possibility of joint hearings so that we may be enlightened on nanoscience's full potential. I also hope that the other federal R&D agencies will make similar commitments in their areas of expertise. Maintaining this edge, by promoting these long term and high risk investigations is something which we cannot expect in the short time frame world of today's industry. It is critical that our U.S. government step into this void, particularly in the area of nanoscience, and provide the necessary intellectual capital to propel our national economy as a leader in the 21st century.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. KYL, Mr. MCCAIN, and Mrs. BOXER):

S. 92. A bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes; to the Committee on Finance.

PROTECTION OF U.S. BORDERS

Mr. GRAMM. Mr. President, on behalf of Senators HUTCHISON, BINGAMAN, DOMENICI, KYL, MCCAIN, and BOXER, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada to no more than 20 minutes, while strengthening our commitment to interdict illegal narcotics and other contraband.

This bill represents the progress that we made in this regard in the last Congress, and it builds on efforts that we first initiated in the 105th Congress. This legislation passed the Senate unanimously on August 5, 1999, and a similar bill passed the House of Representatives on May 25, 1999, by a vote of 410–2. In addition to the resources dedicated to our nation's land borders, this bill also incorporates the efforts of Senators GRASSLEY and GRAHAM in adding resources for interdiction efforts in the air and along our coastline, provisions that were passed by the Senate in last year's bill.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology, and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. Customs staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the Southwestern and Northern borders, and these additional personnel need the modern technology that will allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico. I will be speaking further to my colleagues about this initiative and urge their support for this bill.

By Ms. SNOWE (for herself and Mr. JEFFORDS):

S. 93. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN REFORM

Ms. SNOWE. Mr. President, I rise to introduce a bill along with my friend and colleague from Vermont, Senator JEFFORDS, to ensure that we will have balanced, comprehensive campaign finance reform that doesn't close one loophole while leaving another open. It is a bipartisan approach to a burgeoning segment of undisclosed and unregulated campaign activity that will only get worse if left unchecked.

Mr. President, the bill I am offering is based on a provision this body added to the McCain-Feingold bill three years ago, and a bill we introduced in the 106th Congress. With that amendment, the Senate finally went on record as having a majority in support of campaign finance reform. In fact, 53 senators cast a vote supporting the combined approach of a soft money ban and a sound, constitutional approach to addressing a veritable explosion in unregulated, so-called ''issue ads''.

Senator JEFFORDS and I crafted this measure because we wanted campaign finance reform; we wanted a bill that represented the best possible policy; and we wanted a package that could bridge the political gap that had opened between supporters and opponents.

On the one hand, we had Republicans concerned that McCain-Feingold, as it stood, might not have done enough to focus on the use of the union dues for political purposes. On the other hand, we had Democrats who didn't want unions signaled out and wanted corporate money to be addressed as well.

That's the context in which we set out to carefully construct a measure that would withstand constitutional scrutiny, address some of the most egregious abuses, and focus on areas where we know the Supreme Court has already allowed us to go—disclosure, and a prohibition on union and corporation money for electioneering. Indeed, the compromise language eventually adopted was supported by groups like Common Cause and Public Citizen, and by the bill's sponsors themselves.

I would also like to enter into the record a portion of a March 1, 1998 Washington Post editorial that said,'' The (Snowe-Jeffords) amendment was a reminder of how good a bill might be in reach if only there were the political will, and willing leadership, to write it.'' The editorial went on to say that ''that's the sort of compromise that the legislative process at its best produces.''

I am pleased that a provision based directly on that amendment is now included in the McCain-Feingold bill being introduced today, and of which I am an original cosponsor. I think the provision strengthens the McCain-Feingold bill in terms of providing balance and more comprehensive approach to reform.

Mr. President, I have stood on the Senate floor and spoken of the burgeoning problem this bill seeks to address. And I have said that, if we do nothing, the situation will only get worse. Well, it has gotten worse, and let me just take a moment before describing what the bill will do to detail why this bill is necessary in the first place.

What I'm talking about here are broadcast advertisements the sole purpose of which is to influence federal elections, but that require no disclosure and have none of the restrictions that for decades have been placed on other forms of campaigning. These are broadcast ads that masquerade as informational or educational, but are really ''stealth advocacy'' ads for or against candidates.

According to estimates by the Annenberg Public Policy center which has been extensively studying this trend, in the 2000 elections over $400 million was spent on these so-called ''issue ads''—many of which are blatant attempts to influence federal elections, and everyone knows it. And that number—which is four times what was estimated for the last presidential election cycle, I might add, may be just the tip of the iceberg. Because we simply don't know all the money that's being spent.

So how do we address the problem?

The Snowe-Jeffords approach is simple and straightforward. First, we require disclosure on all groups and individuals running broadcast ads within 30 days of a primary and 60 days of any election that mention the name of a federal candidate. And second, a ban on the use of union or corporate treasury money to pay for these ads.

That's what this boils down to, Mr. President. Disclosure, disclosure, disclosure. In fact, nothing in this bill prevents anyone from running any ads at any time saying anything they want.

All we say is, if you spend more than $10,000 per year on these broadcast ads you can't use union or corporation money. That's the only ban on anything in this bill. And we require you to disclose who is bankrolling the ads if they give $500 or more.

We developed this approach in consultation with noted constitutional scholars and reformers such as Norm Ornstein of the American Enterprise Institute Joshua Rosenkrantz, Director of the Brennan Center for Justice at NYU, and Daniel Ortiz, John Allan Love Professor of Law at the University of Virginia School of Law. The bill is narrowly and carefully crafted, and based on the precept that the Supreme Court has made clear that, for constitutional purposes, campaigning—which make no mistake, these ads do—is different from other speech.

Corporations have been banned from direct involvement in campaigns since the Tillman Act of 1907—unions were first addressed in the Smith-Connally Act of 1943 and the prohibition was finally made permanent in 1947 with the Taft-Hartley Act.

Under Snowe-Jeffords, unions and corporations still have a voice in federal elections through the appropriate avenue—a political action committee to which individuals voluntarily contribute up to the amount allowed by law. They just can't use unlimited shareholder monies or money from union coffers to fund the ads—a logical extension of current law.

As for disclosure, the Brennan Center analysis has concluded that, ''Congress is permitted to demand that the sponsor of an electioneering message disclose the amount spent on the message and the sources of the funds.''

It has been said in the past that this measure prohibits running these ads altogether. In point of fact, anyone can run any ad saying anything they want at any time. They simply must not use union or corporate treasury money within 30 days of a primary or 60 days before a general election, and they must let us know who paid for them. Is that too much to ask?

The fact is, Mr. President, we are burying our heads in the sand if we do nothing about this problem. It is clearly taking elections out of the hands of individuals and of candidates.

Certainly, there are some legitimate issue ads out there. They are truly designed to inform the public, or advocate a particular position. We don't effect these ads one iota. We don't want to effect these ads.

And certainly, people have a right to disagree with candidates, and even attack their positions. That is why nothing in this bill prevents people from doing so. All we say is that we ought to know who is paying for these ads, and that they should not be paid for with union or corporation money—like any other activity that is influencing a federal election.

Again, the bill only requires disclosure for large donors to all groups spending more than $10,000 on ads running 30 days before a primary and 60 days before a general election. And it only bans union and corporation treasury money from funding such ads, based on the 1907 and 1947 laws I mention earlier.

This approach has garnered majority support from the Senate in the past and in light of the previous elections it deserves even greater support today. We need balanced, meaningful, and comprehensive campaign finance reform, and this bill is a vital component. I urge its consideration.

Mr. JEFFORDS. Mr. President, I rise today to express my strong support for the bill Senator SNOWE and I are introducing and urge my Senate colleagues to join as cosponsors of this important legislation.

Throughout the last Congress the Senate spent many legislative hours debating campaign finance reform. In fact, since my election to the House in the wake of the Watergate scandal, I have spent many long hours working with my colleagues to craft campaign finance reform legislation that could ensure the legislative process and survive a constitutional challenge. We have come close in the past, and I believe circumstances still remain right for enactment of meaningful campaign finance reform during this Congress.

I believe that the irregularities associated with our recent campaigns point out the fact that current election laws are not being strongly enforced or working to achieve the goals that we all have for campaign finance reform. Without action, these abuses will become more pronounced and widespread as we go from election to election.

The Snowe-Jeffords bill, the Advancing Truth and Accountability of Campaign Communications Act (ATACC), will boost disclosure requirements and tighten the rules on expenditures of corporate and union treasury funds in the weeks preceding a primary and general election.

I would like to begin with a story that may help my colleagues understand the need for this legislation, and that many of my colleagues may understand from their own campaigns. Two individuals are running for the Senate and have spent the last few months holding debates, talking to the voters and traveling around the state. Both candidates feel that they have informed the voters of their thoughts, views and opinions on the issues, and that the voters can use this information to decide on which candidate they will support.

Two weeks before the day of the election a group called the People for the Truth and the American Way, let's say, begins to run television advertisements which include the picture of one of the

candidates and that candidate's name. However, these advertisements do not use the express terms of ''vote for'' or ''vote against.'' These advertisements discuss personal and family issues.

The voters do not know who this group is, who are its financial backers and why they have an interest in this specific election, and under our current election law the voters will not find out. Thus, even though the candidates have attempted to provide the voters with all the information concerning the candidate's views on the issues, they will be casting their vote lacking critical information concerning these advertisements.

Some people may say that voters do not need this information. But as James Madison said, ''A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.''

Mr. President, the ATACC act will arm the people with the knowledge they need in order to sustain our popular government. And the need to arm the people with this knowledge is becoming greater every year. The amount of money spent on issue advocacy advertising is increasing over time at an alarming rate. In the 1995–1996 election cycle an estimated $135–150 million was spent on issue advocacy, while in the 1997–1998 cycle an estimated $275–340 million was expended on these types of advertisements. There appears to have been no slowing of expenditures during the 1999–2000 election cycle as the most recent estimates show the previous election cycle's total being surpassed with the final two months of campaigning, where a large proportion of these advertisements are run, remaining.

I have long believed in Justice Brandeis' statement that, ''Sunlight is said to be the best of disinfectants.'' The disclosure requirements in the ATACC act are narrow and tailored to provide the electorate with the important pertinent information they will need to make an informed decision. Information included on the disclosure statement includes the sponsor of the advertisement, amount spent, and the identity of the contributors who donated more than $500. Getting the public this information will greatly help the electorate evaluate those who are seeking federal office.

Additionally, this disclosure, or disinfectant as Justice Brandeis puts it, will also help deter actual corruption and avoid the appearance of corruption that many already feel pervades our campaign finance system. This, too, is an important outcome of the disclosure requirements of this bill. Getting this information into the public purview would enable the press, the FEC and interest groups to help ensure that our federal campaign finance laws are obeyed. If the public doesn't feel that the laws Congress passes in this area are being followed, this will lead to a greater level of disillusionment in their elected representatives. Exposure to the light of day of any corruption by this required disclosure will help reassure our public that the laws will be followed and enforced.

While our bill focuses on disclosure, it will also prohibit corporations and unions from using general treasury monies to fund these types of electioneering communications in a defined period close to an election. Since 1907, federal law has banned corporations from engaging in electioneering. In 1947, that ban was extended to prohibit unions from electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. By treating both corporations and unions similarly we extend current regulation cautiously and fairly. I feel that this prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised with regards to our current campaign finance laws.

Mr. President, I think it is important to clarify at this time some of the things that this bill will not do. It will not prevent grass-roots lobbying communications, it does not cover printed material, nor require the text or a copy of the advertisement to be disclosed. Finally, it does not restrict how much money can be spent on ads, nor restrict how much money a group raises. These points must be expressed early on to ensure that my colleagues can clearly understand what we are and are not attempting to do with our legislation.

We have taken great care with our bill to avoid violating the important principles in the First Amendment of our Constitution. This has required us to review the seminal cases in this areas, including Buckley v. Valeo. Limiting corporate and union spending and disclosure rules has been an area that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth.

Mr. President, I wish I could guarantee to my colleagues that these provisions would be held constitutional, but as we found out with the Religious Freedom Restoration Act, even with near unanimous support, it is difficult to gauge what the Supreme Court will decide on constitutional issues. However, I feel that the provisions we have created follow closely the constitutional roadmap established by the Supreme Court by the decisions in this area, and that it would be upheld.

I know that campaign finance reform is an area of diverse viewpoints and beliefs. However, I feel that the ATACC act offers a constructive and constitutional solution that addresses some of the problems that have been expressed concerning our current campaign finance system. The American people are watching and hoping that we will have a fair, informative and productive debate on campaign finance reform. I know that the proposal that Senator Snowe and I have put forward will do just that.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and this disappointment is reflected in the low number of people that actually participate in what makes this country and democracy great, voting. I feel that giving the voters the additional information required by our legislation will help dispel some of the disillusionment the electorate feels with our campaign system and reinvigorate people to participate again in our democratic system.

In conclusion, the very basis of our democracy requires that an informed electorate participate by going to the polls and voting. The ATACC act will through its disclosure requirements inform our electorate and lead people to again participate in our democratic system.

By Mr. DORGAN:

S. 94. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Commission on Finance.

EXTENDING WIND POWER INCENTIVES

● Mr. DORGAN. Mr. President, today I am introducing a bill that would extend for five additional years the Federal tax incentive that is currently available for facilities that produce electricity from wind.

Despite all of its promise, wind energy is still a relatively untapped clean source of energy in our region and across the country. U.S. wind energy capacity in today's electricity marketplace is about 2,600 megawatts. That's enough to serve about 600,000 typical American households. In 1999, the Administration committed our country to a goal of producing five percent of our total electricity needs—about 80,000 megawatts—from wind power by the year 2020.

Wind energy is one of the world's fastest growing energy technologies. As a result, wind energy can—and should—play a larger role in helping this country move toward greater energy independence. Soaring energy prices over the past year provide a stark reminder of the importance of reducing our reliance on foreign energy sources and keeping a diverse energy supply here at home. In addition, for states like North Dakota, wind energy offers needed economic opportunities for farmers and other rural landowners.

North Dakota is the top-ranked state for wind energy potential and is often referred to as the ''Saudi Arabia'' of wind by industry experts. Together, North and South Dakota could supply two-thirds of the nation's current electricity supply with their wind energy

capacity, according to a Department of Energy analysis.

Greater wind development would also bring new jobs to many rural communities. Moreover, struggling family farmers could earn an extra $2,000-$3,000 annually for each 750 kilowatt wind turbine placed on the farm, while removing only a small fraction of land from the farmer's overall operation.

Congress and the Administration have made some important progress in the effort to promote greater wind energy development. Congress has increased federal funding for wind and other renewable energy research and development at the Department of Energy over the past several years. It also has provided a substantial federal income tax credit that is vital for continued private sector investment in wind generation facilities. Most recently, the U.S. Department of Agriculture's Rural Utilities Service awarded its first-ever wind energy loan a rural electric cooperative serving the Upper Midwest will use to finance the construction of wind turbine generators and power lines to help distribute wind-generated power to rural communities.

Regrettably, Congress and the Administration have undermined their very own efforts by failing to ensure that the federal income tax credit provided to facilities producing electricity from wind is available over the long term.

I recently cosponsored a wind energy conference in North Dakota. It was attended by more than five hundred people, including developers, industry experts, utility executives, rural landowners, public officials and others. This was double the number of expected participants, which demonstrates the growing interest in this renewable energy resource.

Among other things, I heard from wind energy developers who emphasized that one of the major obstacles to greater deployment of new wind technologies is the continued uncertainty surrounding the availability of the wind energy production tax credit. This credit is now scheduled to expire at the end of the year. Industry experts tell me that financial lenders will soon stop providing needed capital to new wind initiatives. As a result, projects already underway will quickly come to a halt. Many developers will simply be unable to build and purchase equipment, secure financing, obtain the required environmental permits and bring wind turbine generators on-line by year's end.

One of the best ways to give developers the certainty and help they need to bring new state-of-the-art wind turbines to the marketplace at a competitive rate is to provide a sufficiently long period of time for them to access the credit. That's exactly what the bill I'm introducing today would do. Specifically, my bill would extend the current production tax credit for qualifying wind facilities that are placed in service on or before December 31, 2006.

The wind energy production tax credit has had broad bipartisan support in the Senate and the House of Representatives in previous years, so I am optimistic that we can pass this legislation quickly in this new Congress. I urge my Senate colleagues to cosponsor this legislation and work with me to get it enacted into law as soon as possible. If we don't, many new wind energy initiatives will come to a standstill at a time when this country can least afford it.●

Mr. KOHL (for himself and Mr. FEINGOLD):

S. 95. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL ENERGY BANK LEGISLATION

Mr. KOHL. Mr. President, I rise today to introduce legislation entitled ''The Federal Energy Bank Act.'' The purpose of this legislation is to provide a stable long term source of funding for energy efficiency projects throughout the Federal Government. If we are to start the Nation on the road toward increased energy conservation we must begin with the Federal Government. This bill will help provide the necessary investments to make this first step toward long term energy conservation possible.

Energy policy is a raging issue for our country at this time. Natural gas prices are at all time highs at a time when we are becoming more and more dependent on gas because of its minimal impact on the environment. Gas has become of victim of its own success, as our demand for the commodity has outstripped our ability in the short term to bring the supply to market.

While I do not oppose continuing fossil fuel exploration and extraction, we cannot drill our way out of the tight energy market. We must also consider other options including conservation. Conservation often gets a bad rap as people think politicians are simply telling them to turn down the heat and shut off the lights they aren't using. Conservation doesn't necessarily mean hardship and darkness, it can also mean new technologies that do not require us to change our habits. It means using energy smarter, using it when we need it, and only as much as we need. Conservation means holding on to the energy we have, and not wasting it.

Conservation is the compliment to production. If we do a better job of saving energy, that means megawatts of generation that will not need to be built. That does not mean we do not need additional generation, the situation in California makes the clear the danger of not keeping up with the demand, it just means that less capacity will be necessary. Anyone who has ever grappled with the siting issues involved with a power plant knows it will be difficult to build even the bare minimum of power generation and transmission.

I have long believed that our Nation must implement a sensible national energy policy which emphasizes greater energy conservation and efficiency, as well as the development of renewable resources. This bill is just one step of many that need to be taken to reduce our energy consumption problems. The events in the Middle East, coupled with the environmental problems associated with the use of fossil fuels, have only increased the need for improved energy conservation. Simply put, we cannot continue to rely on imported oil to meet such a large part of our Nation's energy needs. This dependence places our economic security at great risk. In addition, the use of oil and other fossil fuels contributes to global climate change, air pollution, and acid rain.

Mr. President out attempts to remedy this situation are nothing new. In fact, the laws requiring significant energy use reductions are already in place. The Energy Policy Act of 1992 mandated that Federal agencies use cost-effective measures, with less than a 10-year payback, to reduce energy consumption in their facilities. President Clinton, with Executive Order 13123, extended the mandate by requiring Federal agencies to reduce energy consumption by 35 percent by the year 2010 compared to 1985 energy uses. If accomplished, this would save the American taxpayer millions in annual energy costs and in turn put us on the road to future energy savings. This would also improve our environment, our balance of trade, and our national security.

Mr. President, my business background has taught me that most large paybacks come from positive long-term investments. Unfortunately, the Federal Government does not traditionally take this approach. More often than not, it seeks short-term savings and cuts which do not address the problem of energy consumption or encourage future energy conservation.

Mr. President, my bill will help address this funding shortfall. The bill creates a bank to fund the purchase of energy efficiency projects by Federal agencies and in the long run will reduce the overall amount of money spent on energy consumption by the Federal Government. For each of the fiscal years 1999, 2000, 2001, each Federal agency will contribute an amount equal to 5 percent of its previous year's utility costs into a fund or bank managed by the Secretary of the Treasury.

The Secretary of Energy will authorize loans from the bank to any Federal agency for use toward investment in energy efficiency projects. The agency will then repay the loan, making the bank self-supporting after a few years. The Secretary of Energy will also establish selection criteria for each energy efficiency project, determining the project is cost-effective and produces a payback in 3 years or less. Agencies will be required to report the progress of each project with a cost of more than $1 million to the Secretary 1 year after installation. The Secretary will then report to Congress each year on all the operations of the bank.

Mr. President, this bill will provide the real dollars required to make the Executive order goals a reality.

Mr. President, in closing I would like to thank Johnson Controls, the largest public company in Wisconsin, for their continued leadership and input on this bill. As a maker of energy conservation systems, Johnson has provided me with the real world insights that have helped me draft a bill that attempts to address our energy conservation needs.

Mr. President, I ask unanimous consent the full text of the bill be printed in full in the RECORD. I urge my colleagues to support this bill and will push for its early enactment.

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

S. 95

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 ''Federal Energy Bank Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) energy conservation is a cornerstone of national energy security policy;

(2) the Federal Government is the largest consumer of energy in the economy of the United States;

(3) many opportunities exist for significant energy cost savings within the Federal Government; and

(4) to achieve the energy savings required by Executive Order, the Federal Government must make significant investments in energy savings systems and products, including energy management control systems.

(b) PURPOSE.—The purpose of this Act is to promote energy conservation investments in Federal facilities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' means—

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service);

(B) Congress and any other entity in the legislative branch; and

(C) a court and any other entity in the judicial branch.

(2) BANK.—The term ''Bank'' means the Federal Energy Bank established by section 4.

(3) ENERGY EFFICIENCY PROJECT.—The term ''energy efficiency project'' means a project that assists an agency in meeting or exceeding the energy efficiency requirements of—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.);

(B) subtitle F of title I of the Energy Policy Act of 1992 and the amendments made by that subtitle (106 Stat. 2843); and

(C) applicable Executive orders, including Executive Order Nos. 12759 and 12902.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) TOTAL UTILITY PAYMENTS.—The term ''total utility payments'' means payments made to supply electricity, natural gas, and any other form of energy to provide the heating, ventilation, air conditioning, lighting, and other energy needs of an agency facility.

SEC. 4. ESTABLISHMENT OF BANK.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Federal Energy Bank'', consisting of—

(1) such amounts as are appropriated to the Bank under section 8;

(2) such amounts as are transferred to the Bank under subsection (b);

(3) such amounts as are repaid to the Bank under section 5(b)(4); and

(4) any interest earned on investment of amounts in the Bank under subsection (c).

(b) TRANSFERS TO BANK.—

(1) IN GENERAL.—At the beginning of each of fiscal years 2002, 2003, and 2004, each agency shall transfer to the Secretary of the Treasury, for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(2) UTILITIES PAID FOR AS PART OF RENTAL PAYMENTS.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of paragraph (1).

(c) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

SEC. 5. LOANS FROM THE BANK.

(a) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under subsection (b).

(b) LOAN PROGRAM.—

(1) IN GENERAL.—In accordance with section 6, the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(2) PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which performance contracting funding is available.

(3) PURPOSES OF LOAN.—

(A) IN GENERAL.—A loan under this section may be made to pay the costs of—

(i) an energy efficiency project; or

(ii) development and administration of a performance contract.

(B) LIMITATION.—An agency may use not more than 15 percent of the amount of a loan under subparagraph (A)(i) to pay the costs of administration and proposal development (including data collection and energy surveys).

(4) REPAYMENTS.—

(A) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(B) WAIVER.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines that payment of interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project loans.

(5) AGENCY ENERGY BUDGETS.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measure implemented with funds from the Bank.

(6) AVAILABILITY OF FUNDS.—An agency shall not rescind or reprogram funds made available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

SEC. 6. SELECTION CRITERIA.

(a) IN GENERAL.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with subsection (b).

(b) SELECTION CRITERIA.—The Secretary may make loans only for energy efficiency projects that—

(1) are technically feasible;

(2) are determined to be cost-effective using life cycle cost methods established by the Secretary by regulation;

(3) include a measurement and management component to—

(A) commission energy savings for new Federal facilities; and

(B) monitor and improve energy efficiency management at existing Federal facilities; and

(4) have a project payback period of 3 years or less.

SEC. 7. REPORTS AND AUDITS.

(a) REPORTS TO THE SECRETARY.—Not later than 1 year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(1) states whether the project meets or fails to meet the energy savings projections for the project; and

(2) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(b) AUDITS.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(c) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. FEINGOLD. Mr. President, I am delighted to join with my colleague, the Senior Senator from Wisconsin (Mr. KOHL) as an original cosponsor of the Federal Energy Bank Act.

As a politician, the idea of the federal government ''leading by example'' in the area of energy efficiency has made sense to me for a long time, so much so, in fact, that in campaigning for the Senate in 1992, I included energy efficiency in my campaign platform. I proposed an 82-point plan to reduce the deficit, a series of specific spending reductions and revenue changes which, if enacted in sum total, would have eliminated the deficit.

Among those items, as I was a candidate for office after the passage of the 1992 Energy Policy Act and after the United States' signing of the Framework Convention on Climate Change in Rio De Janeiro, Brazil, was one to encourage the federal government to implement a comprehensive energy savings program for the federal government through energy efficiency investments.

After all, I believe that if Wisconsin consumers and business have been converted to the wisdom of compact fluorescent light bulbs, efficient heating and cooling systems, weatherization, and energy saving computers, among the wide range of potential efficiency improvements, that the federal government promoting those actions should

also make the same investments to the taxpayers' benefit.

Section 152 of the Energy Policy Act mandated that Federal agencies use all cost-effective measures that could be implemented with less than a 10-year payback to reduce energy consumption in their facilities by 20 percent by the year 2000 compared to 1985 consumption levels. Both of the two previous Administrations have been committed to these types of common sense ''no-regrets'' energy savings strategies. After taking office, I have learned that among the most significant constraints to implementing more energy efficient practices in the federal government is the lack of sufficient funds to invest in energy efficient equipment.

Section 162 of the Energy Policy Act of 1992 directed the Secretary of Energy to conduct a detailed study of options for financing energy and water conservation measures in Federal facilities as required under the Act and by subsequent Executive Orders. On June 3, 1997, the then Secretary of Energy (Mr. Peña) released that study. It documented a need for a $5.7 billion financial investment between 1996 and 2005 to meet the Energy Policy Act and Executive Order goals, a value which could vary from a low of $4.4 billion to a high of $7.1 billion given variability in both energy and water investment requirements.

The best estimate, according to the same study of the total federal funding available to spend on energy and water efficiency improvements from various sources, including direct agency appropriations, energy savings performance contracts, and utility demand-side management programs, and appropriations to the Federal Energy Efficiency Fund, to the federal government to meet those needs over the same time period is $3.7 billion. Thus, under DOE's best estimate, at the federal level we face a potential shortfall of funds necessary to achieve our federal energy and water conservation objectives of $2 billion.

In order to address this shortfall, I am pleased to join as a co-sponsor of this legislation to create a federal energy revolving fund or ''energy bank.'' I hope this legislation can be one of the items on which we can reach bipartisan consensus in our efforts to develop a national energy strategy this Congress.

Some in this body may be concerned that the existence of the current Federal Energy Efficiency Fund alleviates the need for additional federal conservation investment. The problem with the current fund, which operates as a grant program for agencies to make efficiency improvements, is that it does not contribute to the replenishment of capital resources because it does not have to be paid back and is therefore dependent upon appropriations.

Under the legislation, I join in cosponsoring with my colleague from Wisconsin today, federal agencies will be required, to deposit 5 percent of their total utility payments in the proceeding fiscal year to capitalize the fund. After 2001, the Secretary of Energy will determine an amount necessary to ensure that the fund meets its obligations.

Agencies will then be able to get a loan from the fund to finance efficiency projects, which they will be responsible for repaying with interest. The projects must use off-the-shelf technologies and must be cost effective. The best part of this approach is that the technologies are required to have a three-year pay back period, and, therefore, this legislation achieves some modest savings for the taxpayer. CBO scores this measure as saving $3 million over 5 years.

There is a need to improve federal procurement of energy efficient technologies, and this measure is a positive, proactive measure to ensure that federal agencies specifically set aside funds to achieve this goal. The Senior Senator from Wisconsin (Mr. KOHL) and I look forward to working with the administration to advance this legislation as a piece of the country's overall greenhouse gas reductions strategy.

In conclusion, I look forward to working with my Senior Senator on this issue. I believe that this is a unique opportunity for Senate colleagues to support legislation that is both fiscally responsible and environmentally sound.

By Mr. KOHL:

S. 96. A bill to ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law; to the Committee on Health, Education, Labor, and Pensions.

TRAVELING SALES CREW PROTECTION ACT

Mr. KOHL. Mr. President almost two years have gone by since the tragic accident in Janesville, WI, that brought to light the abuse of workers in the magazine sales industry. Since 1992, forty-two sales people have been killed or injured in similar crashes. Unfortunately deaths and injuries still occur. Parents are still separated from their children without knowing where they are or whether they are safe. Young people are not being paid for their work, and are being falsely listed as independent contractors. Roving sweatshops continue to travel our highways and solicit unlicenced in our neighborhoods.

My legislation would go a long way toward ending this sad state of affairs.

Today I have introduced legislation to crack down on abuses in the traveling sales crew industry. These companies employ crews who travel from city to city selling products door to door. Often times, however, these companies mistreat their workers and violate local, state, and federal labor law. Because they rapidly move from state to state, enforcement efforts are difficult if not impossible for local authorities.

In 1987 former Senator Roth, as part of the Permanent Subcommittee on Investigations looked into this industry, and was appalled at what he found. Incidents of verbal and physical abuse of workers were widespread. Young people were coerced into continuing to sell long after they wanted to leave through threats and taunts from their employers. When sellers were able to get free they were often unpaid or denied the bus ticket home they were promised when they signed up.

The compensation system for the workers was also rigged to ensure that workers could not leave. Prospective sellers were promised big bucks when they were recruited, but soon found that decent pay was difficult to come by. Sellers were paid on a commission basis according to their sales, but they were also charged by the company for their accommodations and fined for small infractions like showing up late to meetings or sleeping on the van. Salespeople were not paid in a timely manner, but their earnings were kept on ''paper'' and the employees only drew a daily allowance to pay for food. Employees were seldom allowed to see the paper work that tracked their earnings so they had little idea about how much they are entitled. Many found that they were not able to keep up with the sales and fell in debt to the company. After working 12 hour days, six days a week for months, employees actually owed the company money! These young people became indentured servants, working long hours for only room and board.

In the thirteen years since Senator Roth's investigation, nothing has changed. These abuses continue, and Congress should act.

I am not one to frivolously engage in regulating business, but in this case the need for federal involvement is clear. Because of the mobility of these companies, states cannot crack down on these groups alone. They need federal help to eliminate the unscrupulous actors in the industry.

The Traveling Sales Crew Protection Act would take important steps to eliminate employers who abuse their workers. First, it would no longer allow minors to be employed in this line of work. Door to door sales can be dangerous work and combined with the long hours and hazardous travel, creates a job too dangerous for children. Second, the bill would narrowly eliminate the exemption under the Fair Labor Standards Act for these specific kinds of operations. Covering these employees with minimum wages laws and overtime requirements protects them from becoming indentured servants to their employers through complex compensation systems. This provision is carefully crafted to cover only traveling sales crews, individuals who sell over the road, or at trade shows would be unaffected. Lastly the bill creates a licensing procedure through the Department of Labor to monitor those engaged in supervising and running these operations.

These measures are important steps forward in a nationwide effort to eliminate this particularly abusive form of worker exploitation. I hope I will have my colleagues' support as I try to make the painful crash in Janesville, the last chapter in this shameful story.

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

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

S. 96

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 ''Traveling Sales Crew Protection Act''.

TITLE I—FAIR LABOR STANDARDS ACT OF 1938

SEC. 101. APPLICATION OF PROVISIONS TO CERTAIN OUTSIDE SALESMAN.

(a) IN GENERAL.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(k) For purposes of subsection (a)(1), and notwithstanding any other provision of law, the term 'outside salesman' shall not include any individual employed in the position of a salesman where the individual travels with a group of salespeople, including a supervisor, team leader or crew leader, and the employees in the group do not return to their permanent residences at the end of the work day.''.

(b) LIMITATION ON CHILD LABOR.—Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

''(e) No individual under 18 years of age may be employed in a position requiring the individual to engaged in door to door sales or in related support work in a manner that requires the individual to remain away from his or her permanent residence for more than 24 hours.''.

(c) RULES AND REGULATIONS.—The Secretary of Labor may issue such rules and regulations as are necessary to carry out the amendments made by this section, consistent with the requirements of chapter 5 of title 5, United States Code.

TITLE II—PROTECTION OF TRAVELING SALES CREWS

SEC. 201. PURPOSE.

It is the purpose of this title—

(1) to remove the restraints on interstate commerce caused by activities detrimental to traveling sales crew workers;

(2) to require the employers of such workers to register under this Act; and

(3) to assure necessary protections for such employees.

SEC. 202. DEFINITIONS.

In this title:

(1) CERTIFICATE OF REGISTRATION.—The term ''Certificate of Registration'' means a Certificate issued by the Secretary under section 203(c)(1).

(2) EMPLOY.—The term ''employ'' has the meaning given such term by section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 201(g)).

(3) GOODS.—The term ''goods'' means wares, products, commodities, merchandise, or articles or subjects of interstate commerce of any character, or any part or ingredient thereof.

(4) PERSON.—The term ''person'' means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(5) SALE, SELL.—The terms ''sale'' or ''sell'' include any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition of goods.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(7) TRAVELING SALES CREW WORKER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''traveling sales crew worker'' means an individual who—

(i) is employed as a salesperson or in related support work;

(ii) travels with a group of salespersons, including a supervisor; and

(iii) is required to be absent overnight from his or her permanent place of residence.

(B) LIMITATION.—The term ''traveling sales crew worker'' does not include—

(i) any individual who meets the requirements of subparagraph (A) if such individual is traveling to a trade show or convention; or

(ii) any immediate family member of a traveling sales crew employer.

SEC. 203. REGISTRATION OF EMPLOYERS AND SUPERVISORS OF TRAVELING SALES CREW WORKERS.

(a) REGISTRATION REQUIREMENT.—

(1) IN GENERAL.—No person shall engage in any form of employment of traveling sales crew workers, unless such person has a Certificate of Registration from the Secretary.

(2) SUPERVISORS.—A traveling sales crew employer shall not hire, employ, or use any individual as a supervisor of a traveling sales crew, unless such individual has a Certificate of Registration from the Secretary.

(3) DISPLAY OF CERTIFICATE OF REGISTRATION.—Each registered traveling sales crew employer and each registered traveling sales crew supervisor shall carry at all times while engaging in traveling sales crew activities a Certificate of Registration from the Secretary and, upon request, shall exhibit that certificate to all persons with whom they intend to deal.

(b) APPLICATION FOR REGISTRATION.—Any person desiring to be issued a Certificate of Registration from the Secretary, as either a traveling sales crew employer or traveling sales crew supervisor, shall file with the Secretary a written application that contains the following:

(1) A declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the type or types of sales activities to be performed, and such other relevant information as the Secretary may require.

(2) A statement identifying each vehicle to be used to transport any member of any traveling sales crew and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 204(d) with respect to each such vehicle.

(3) A statement identifying, with as much specificity as the Secretary may require, each facility or real property to be used to house any member of any traveling sales crew and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 204(e) with respect to each such facility or real property.

(4) A set of fingerprints of the applicant.

(5) A declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(c) ISSUANCE OF CERTIFICATE OF REGISTRATION.—

(1) IN GENERAL.—In accordance with regulations, and after any investigation which the Secretary may deem appropriate, the Secretary shall issue a Certificate of Registration, as either a traveling sales crew employer or traveling sales crew supervisor, to any person who meets the standards for such registration.

(2) REFUSAL TO ISSUE OR RENEW, SUSPENSION AND REVOCATION.—The Secretary may refuse to issue or renew, or may suspend or revoke, a Certificate of Registration if the applicant for or holder or the Certificate—

(1) has knowingly made any misrepresentation in the application for such Certificate of Registration;

(2) is not the real party in interest with respect to the application or Certificate of Registration and the real party in interest is a person who—

(A) has been refused issuance or renewal of a Certificate;

(B) has had a Certificate suspended or revoked; or

(C) does not qualify for a Certificate under this section;

(3) has failed to comply with this title or any regulation promulgated under this title;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this title or any regulation promulgated under this title; or

(B) to comply with any final order issued by the Secretary as a result of a violation of this title or any regulation promulgated under this title;

(5) has been convicted within the 5 years preceding the date on which the application was filed or the Certificate was issued—

(A) of any crime under Federal or State law relating to the sale, distribution or possession of alcoholic beverages or narcotics, in connection with or incident to any traveling sales crew activities;

(B) of any crime under Federal or State law relating to child abuse, neglect, or endangerment; or

(C) of any felony under Federal or State law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally;

(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1) or (2));

(7) has failed to comply with any bonding or security requirements as the Secretary may establish; or

(8) has failed to satisfy any other requirement which the Secretary may by regulation establish.

(d) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW.—

(1) IN GENERAL.—A person who is refused the issuance or renewal of a Certificate or Registration, or whose Certificate of Registration is suspended or revoked, shall be afforded an opportunity for an agency hearing, upon a request made within 30 days after the date of issuance of the notice of refusal, suspension, or revocation. If no hearing is requested as provided for in this subsection, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) HEARING.—If a hearing is requested under paragraph (1), the initial agency decision shall be made by an administrative law judge, with all issues to be determined on the record pursuant to section 554 of title 5, United States Code, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final

order which takes effect under this paragraph shall be subject to review only as provided under paragraph (3).

(3) REVIEW BY COURT.—Any person against whom an order has been entered after an agency hearing under this subsection may obtain review by the United States district court for any district in which the person is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such agency order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the agency order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) TRANSFER OR ASSIGNMENT OF CERTIFICATE; EXPIRATION; RENEWAL.—

(1) LIMITATION.—A Certificate of Registration may not be transferred or assigned.

(2) EXPIRATION AND EXTENSION.—

(A) EXPIRATION.—Unless earlier suspended or revoked, a Certificate of Registration shall expire 12 months from the date of issuance.

(B) EXTENSION.—A Certificate of Registration may be temporarily extended, at the Secretary's discretion, by the filing of an application with the Secretary at least 30 days prior to the Certificate's expiration date.

(3) RENEWAL.—A Certificate of Registration may be renewed through the application process provided for in subsections (b) and (c).

(f) NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION.—During the period for which a Certificate of Registration is in effect, the traveling sales crew employer or supervisor named on the Certificate shall—

(1) provide to the Secretary within 30 days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the Certificate of Registration whenever the person intends to—

(A) engage in any form of traveling sales crew activity not identified on the Certificate;

(B) use or cause to be used any vehicle not covered by the Certificate to transport any traveling sales crew worker; or

(C) use or cause to be used any facility or real property not covered by the Certificate to house any traveling sales crew worker.

(g) FILING FEE.—The Secretary shall require the payment of a fee by an employer filing an application for the issuance or renewal of a Certificate of Registration. The amount of the fee shall be $500 for a Certificate for an employer and $50 for a Certificate for a supervisor. Sums collected pursuant to this section shall be applied by the Secretary toward reimbursement of the costs of administering this title.

SEC. 204. OBLIGATIONS OF EMPLOYERS OF TRAVELING SALES CREW WORKERS.

(a) DISCLOSURE OF TERMS AND CONDITIONS OF EMPLOYMENT.—

(1) WRITTEN DISCLOSURE.—At the time of recruitment, each traveling sales crew worker shall be provided with a written disclosure of the following information, which shall be accurate and complete to the best of the employer's knowledge:

(A) The place or places of employment, stated with as much specificity as possible.

(B) The wage rate or rates to be paid.

(C) The type or types of work on which the worker may be employed.

(D) The period of employment.

(E) The transportation, housing, and any other employee benefit to be provided, and any costs to be charged to the worker for each such benefit.

(F) The existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment.

(G) Whether State workers' compensation insurance is provided and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

(2) RECORDS AND STATEMENTS.—Each employer of traveling sales crew workers shall—

(A) with respect to each such worker, make, keep, and preserve records for 3 years of the—

(i) basis on which wages are paid;

(ii) number of piecework units earned, if paid on a piecework basis;

(iii) number of hours worked;

(iv) total pay period earnings;

(v) specific sums withheld and the purpose of each sum withheld; and

(vi) net pay; and

(B) provide to each worker for each pay period, an itemized written statement of the information required under subparagraph (A).

(b) PAYMENT OF WAGES WHEN DUE.—Each traveling sales crew worker shall be paid the wages owed that worker when due. The payment of wages shall be in United States currency or in a negotiable instrument such as a bank check. The payment of wages shall be accompanied by the written disclosure required by subsection (a)(2)(B).

(c) COSTS OF GOODS, SERVICES, AND BUSINESS EXPENSES.—

(1) PROHIBITION.—No employer of traveling sales crew workers shall—

(A) require any worker to purchase any goods or services solely from such employer; or

(B) impose on any worker any of the employer's business expenses, such as the cost of maintaining and operating a vehicle used to transport the traveling sales crew.

(2) INCLUSION AS PART OF WAGES.—An employer may include as part of the wages paid to a traveling sales crew worker the reasonable cost to the employer of furnishing board, lodging, or other facilities to such worker, so long as—

(A) such facilities are customarily furnished by such employer to the employees of the employer; and

(B) such cost does not exceed the fair market value of such facility and does not include any profit to the employer.

(d) SAFETY AND HEALTH IN TRANSPORTATION.—

(1) STANDARDS.—An employer of traveling sales crew workers shall provide transportation for such workers in a manner that is consistent with the following standards:

(A) The employer shall ensure that each vehicle which the employer uses or causes to be used for such transportation conforms to the standards prescribed by the Secretary under paragraph (2) and conforms to other applicable Federal and State safety standards.

(B) The employer shall ensure that each driver of each such vehicle has a valid and appropriate license, as provided by State law, to operate the vehicle.

(C) The employer shall have an insurance policy or fidelity bond in accordance with subsection (c).

(2) PROMULGATION BY SECRETARY.—The Secretary shall prescribe, by regulation, such safety and health standards as may be appropriate for vehicles used to transport traveling sales crew workers. In establishing such standards, the Secretary shall consider—

(A) the type of vehicle used;

(B) the passenger capacity of the vehicle;

(C) the distance which such workers will be carried in the vehicle;

(D) the type of roads and highways on which such workers will be carried in the vehicle;

(E) the extent to which a proposed standard would cause an undue burden on an employer of traveling sales crew workers; and

(F) any standard prescribed by the Secretary of Transportation under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) or any successor provision of subtitle IV of title 49, United States Code.

(e) SAFETY AND HEALTH IN HOUSING.—An employer of traveling sales crew workers shall provide housing for such workers in a manner that is consistent with the following standards:

(1) If the employer owns or controls the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Prior to occupancy by such workers, the facility or real property shall be certified by a State or local health authority or other appropriate agency as meeting applicable safety and health standards. Written notice shall be posted in the facility or real property, prior to and throughout the occupancy by such workers, informing such workers that the applicable safety and health standards are met.

(2) If the employer does not own or control the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the owner or operator of such facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Such assurance by the employer shall include the verification that the owner or operator of such facility or real property is licensed and insured in accordance with all applicable State and local laws. The employer shall obtain such assurance prior to housing any workers in the facility or real property.

(f) INSURANCE OF VEHICLES; WORKERS' COMPENSATION INSURANCE.—

(1) INSURANCE.—An employer of traveling sales crew workers shall ensure that there is in effect, for each vehicle used to transport such workers, an insurance policy or a liability bond which insures the employer against liability for damage to persons and property arising from the ownership, operation, or the causing to be operated of such vehicle for such purpose. The level of insurance or liability bond required shall be determined by the Secretary considering at least the factors set forth in subsection (d)(2) and any relevant State law.

(2) WORKERS' COMPENSATION.—If an employer of traveling sales crew workers is the employer of such workers for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such workers as provided for by such State law, the following modifications to the requirements of paragraph (1) shall apply:

(A) No insurance policy or liability bond shall be required of the employer if such workers are transported only under circumstances for which there is workers' compensation coverage under such State law.

(B) An insurance policy or liability bond shall be required of the employer for all circumstances under which workers' compensation coverage for the transportation of such workers is not provided under such State law.

SEC. 205. ENFORCEMENT PROVISIONS.

(a) CRIMINAL SANCTIONS.—An employer who willfully and knowingly violates this title, or any regulation promulgated under this title, shall be fined not more than $10,000 or imprisoned for not to exceed 1 year, or both. Upon conviction for any subsequent violation of this title, or any such regulation, an employer shall be fined not more than $50,000 or imprisoned for not to exceed 3 years, or both.

(b) JUDICIAL ENFORCEMENT.—

(1) INJUNCTIVE RELIEF.—The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this title, or any regulation promulgated under this title, has been violated.

(2) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this title, but all such litigation shall be subject to the direction and control of the Attorney General.

(c) ADMINISTRATIVE SANCTIONS; PROCEEDINGS.—

(1) CIVIL MONEY PENALTY.—Subject to paragraph (2), an employer that violates this title, or any regulation promulgated under this title, may be assessed a civil money penalty of not more than $10,000 for each such violation.

(2) DETERMINATION OF PENALTY.—In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account—

(A) the previous record of the employer in terms of compliance with this title and the regulations promulgated under this title; and

(B) the gravity of the violation.

(3) PROCEEDINGS.—

(A) IN GENERAL.—An employer that is assessed a civil money penalty under this subsection shall be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as provided for in this paragraph, the assessment shall constitute a final and unappealable order.

(B) ADMINISTRATIVE LAW JUDGE.—If a hearing is requested under subparagraph (A), the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates this decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided for under subparagraph (C).

(C) REVIEW.—An employer against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which the employer is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(D) FAILURE TO PAY.—If any person fails to pay an assessment after it has become a final and unappealable order under this paragraph, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(E) PAYMENT OF PENALTIES.—All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(d) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—Any traveling sales crew worker aggrieved by a violation of this title, or any regulation promulgated under this title, by an employer may file suit in any district court of the United States having jurisdiction over the parties, without respect to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided for in this title.

(2) DAMAGES.—

(A) IN GENERAL.—If the court in an action under paragraph (1) finds that the defendant intentionally violated a provision of this Act, or a regulation promulgated under this Act, the court may award—

(i) damages up to and including an amount equal to the amount of actual damages;

(ii) statutory damages of not more than $1,000 per plaintiff per violation or, if such complaint is certified as a class action, not more than $1,000,000 for all plaintiffs in the class; or

(iii) other equitable relief.

(B) DETERMINATION OF AMOUNT.—In determining the amount of damages to be awarded under subparagraph (A), the court may consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(C) WORKERS' COMPENSATION.—

(i) IN GENERAL.—Notwithstanding any other provision of this title, where a State workers' compensation law is applicable and coverage is provided for a traveling sales crew worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this title in the case of bodily injury or death in accordance with such State's workers' compensation law.

(ii) LIMITATION.—The exclusive remedy provided for under clause (i) precludes the recovery under subparagraph (A) of actual damages for loss from an injury or death but does not preclude recovery under such subparagraph for statutory damages (as provided for in clause (iii)) or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

(I) a recovery under a State workers' compensation law; or

(II) rights conferred under a State workers' compensation law.

(iii) STATUTORY DAMAGES.—In an action in which a claim for actual damages is precluded as provided for in clause (ii), the court shall award statutory damages of not more than $20,000 per plaintiff per violation or, in the case of a class action, not more than $1,000,000 for all plaintiffs in the class, if the court finds any of the following:

(I) The defendant violated section 204(d) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of the plaintiff or plaintiffs while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), the defendant had actual knowledge of the driver's condition, such violation resulted in the injury or death of the plaintiff or plaintiffs, and such injury or death arose out of and in the course of employment as defined under the State worker's compensation law.

(II) The defendant was found by the court or was determined in a previous administrative or judicial proceeding to have violated a safety standard prescribed by the Secretary under section 204 and such violation resulted in the injury or death of the plaintiff or plaintiffs.

(III) The defendant willfully disabled or removed a safety device prescribed by the Secretary under section 204, or the defendant in conscious disregard of the requirements of such section failed to provide a safety device required by the Secretary, and such disablement, removal, or failure to provide a safety device resulted in the injury or death of the plaintiff or plaintiffs.

(IV) At the time of the violation of section 204, which resulted in the injury or death of the plaintiff or plaintiffs, the employer or the supervisor of the traveling sales crew did not have a Certificate of Registration in accordance with section 203.

(iv) DETERMINATION OF AMOUNT.—For purposes of determining the amount of statutory damages due to a plaintiff under this subparagraph, multiple infractions of a single provision of this title, or of regulations promulgated under this title, shall constitute a single violation.

(D) ATTORNEY'S FEE.—The court shall, in addition to any judgment awarded to the plaintiff or plaintiffs under this paragraph, allow a reasonable attorney's fee to be paid by the defendant or defendants, and costs of the action.

(E) APPEALS.—Any civil action brought under this subsection shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any traveling sales crew worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this title, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of the worker or others of any right or protection afforded by this title.

(2) COMPLAINT.—

(A) IN GENERAL.—A traveling sales crew worker who believes, with just cause, that such worker has been discriminated against in violation of this subsection may, within 12 months of the date of such violation, file a complaint with the Secretary alleging such discrimination.

(B) INVESTIGATION.—Upon receipt of a complaint under subparagraph (A), the Secretary shall cause such investigation to be made as the determines to be appropriate.

(C) ACTIONS.—If upon an investigation under subparagraph (B), the Secretary determines that the provisions of this subsection have been violated, the Secretary shall bring an action in any appropriate United States district court against the person involved.

(D) RELIEF.—In any action under subparagraph (C), the United States district court

shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

(f) WAIVER OF RIGHTS.—Agreements by workers purporting to waive or to modify their rights under this title shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this title.

(g) AUTHORITY TO OBTAIN INFORMATION.—

(1) IN GENERAL.—To carry out this title, the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection with such investigation, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this title, or regulations promulgated under this title.

(2) PRODUCTION AND RECEIPT OF EVIDENCE.—The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with investigations under paragraph (1). The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this title, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary.

(3) CONFIDENTIALITY.—The Secretary shall conduct investigations under paragraph (1) in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(4) VIOLATION.—It shall be violation of this title for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform any investigation, inspection, or law enforcement function pursuant to this title during the performance of such duties.

(h) STATE LAWS AND REGULATIONS; GOVERNMENT AGENCIES.—

(1) RELATION TO STATE LAWS.—This title is intended to supplement State law, and compliance with this title shall not be construed to excuse any person from compliance with appropriate State laws and regulations.

(2) AGREEMENTS.—The Secretary may enter into agreements with Federal and State agencies—

(A) to use their facilities and services;

(B) to delegate to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this title; and

(C) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under this paragraph.

(i) RULES AND REGULATIONS.—The Secretary may issue such rules and regulations as may be necessary to carry out this title, consistent with the requirements of chapter 5 of title 5, United States Code.

By Mr. KOHL:

S. 97. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Commission on Finance.

VETERANS HOME LOAN BILL

Mr. KOHL. Mr. President, I rise today to introduce legislation that will help Wisconsin and several other States, including Oregon, Texas, Alaska, and California, extend one of our most successful veterans programs to Persian Gulf war participants and others. This bill will amend the eligibility requirements for mortgage revenue bond financing for State veterans housing programs.

State run plans do an excellent job of helping vets bridge the gap to home ownership, and are often more successful than our own federal plan. This bill gives states the tools they need to help veterans.

Wisconsin uses this tax-exempt bond authority to assist veterans in purchasing their first home. Under rules adopted by Congress in 1984, this program excluded from eligibility veterans who served after 1977. This bill would simply remove that restriction.

At a time when everyone is looking for ways to make military service more appealing, we should not overlook the role state sponsored benefits, like home loan programs, can reward our veterans. Wisconsin and the other eligible States simply want to maintain a principle that we in the Senate have also strived to uphold—that veterans of the Persian Gulf war should not be treated less generously than those of past wars. This bill meets a commitment to our service members and levels the benefits between Persian Gulf vets and the vets of the Cold War era.

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

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

S. 97

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

SECTION 1. ELIGIBILITY OF VETERANS FOR MORTGAGE REVENUE BONDS DETERMINED BY STATES.

(a) IN GENERAL.—Paragraph (4) of section 143(*l*) of the Internal Revenue Code of 1986 (defining qualified veteran) is redesignated as paragraph (6) of such section and amended to read as follows:

''(6) QUALIFIED VETERAN.—For purposes of this subsection, the term ''qualified veteran'' means any veteran—

''(A) who meets such requirements as may be imposed by the State law pursuant to which qualified veterans' mortgage bonds are issued,

''(B) who applied for the financing before the date 30 years after the last date on which such veteran left active service, and

''(C) in the case of financing provided by the proceeds of bonds issued during the period beginning July 19, 1984, and ending June 30, 2001, who served on active duty at some time before January 1, 1977.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 2. STATE CAP RESTRICTIONS.

(a) IN GENERAL.—Section 143(*l*) of the Internal Revenue Code of 1986 (relating to additional requirements for qualified veterans' mortgage bonds), as amended by section 1(a), is amended by inserting after paragraph (3) the following new paragraph:

''(4) SUBCAP RESTRICTION.—

''(A) IN GENERAL.—An issue meets the requirements of this paragraph only if the amount of bonds issued pursuant thereto that is to be used to provide financing to mortgagors who have not served on active duty at some time before January 1, 1977, when added to the amount of the aggregate qualified veterans' mortgage bonds previously issued by the State during the calendar year that is to be so used, does not exceed the subcap amount.

''(B) SUBCAP AMOUNT.—

''(i) IN GENERAL.—The subcap amount for any calendar year is an amount equal to the applicable percentage of the State veterans limit for such year.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

''Calendar year:	Applicable Percentage:
2002	10
2003	20
2004	30
2005	40
2006 and thereafter	50.''.

(b) RESTRICTION ON OVERALL STATE CAP.—Paragraph (3)(B) of section 143(*l*) of such Code (relating to State veterans limit) is amended by adding at the end the following flush sentence:

''But in no event shall the State veterans limit exceed $340,000,000 for any calendar year after 2002.''.

(c) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 143(*l*) of such Code is amended by striking ''and (3)'' and inserting '', (3), and (4)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

Mr. KOHL (for himself and Mr. GRAHAM):

S. 99. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

CHILD CARE INFRASTRUCTURE ACT OF 2001.

Mr. KOHL. Mr. President, I rise today to reintroduce the Child Care Infrastructure Act, along with Senator GRAHAM of Florida. Senator GRAHAM and I have both worked on child care issues for many years, and I am pleased that we have combined our efforts to introduce this bill together.

Mr. President, we have talked a great deal in recent years, as well as in the recent campaign, about giving working families the tools they need to succeed. And while some of us may disagree on the details, I think we can all agree upon one basic premise: Working couples who decide to have a family should not be penalized because they both also choose to keep working. But unfortunately today, many working parents do not have access to one of the critical tools they need to succeed at work: quality child care.

Working families spend a large proportion of their income on child care—from 8 percent for families above the

poverty line to 18 percent for those below. And nothing adds more to these high costs than the dramatic shortage of quality child care in this country. The Children's Defense Fund states in a recent report that ''parents and experts report that child care is in short supply—particularly for some age groups and for certain types of care—and that some communities have little or no licensed care.''

This shortage of quality child care is not just inconvenient. It is dangerous, and could jeopardize the ability of children to succeed later in life. Research on the brain has confirmed that the most significant period in a child's development and education is between the years 0–3. Good early childhood programs can improve children's chances of long-term success in school, higher earnings as adults, and decreased involvement with the criminal justice system.

But the lack of quality child care is not only harmful to children. It places a tremendous strain on parents. Full-time child care can cost $4,000 to $6,000 per year, and many working families simply cannot find affordable, quality child care for their young children.

And make no mistake: the lack of reliable child care has a direct impact on businesses and our economy. Parents who can't find reliable child care are more likely to miss work, and the lack of stable child care makes it more difficult for parents to be productive while at work.

Clearly, we all have a stake in increasing the supply of quality child care for families. It will take a sustained effort from families, from government—and yes, from businesses too—to build the child care infrastructure necessary to make sure children, parents, and businesses succeed.

My legislation brings all these players together in a simple, common-sense way. We provide a tax credit to businesses who are willing to take action to increase the supply of quality child care. The credit is available for child care activities such as:

Expenses related to the acquisition, expansion, or repair of an on- or near-site day care center, after-hours care facility, or sick-child facility. This credit would also be available for a consortium of businesses that joined together to create a child care center.

Direct company subsidization of the operating costs of a child care facility.

Direct company payments or reimbursements to employees for their child care expenses.

A company's reservation for their employees of child care slots in a licensed child care facility.

Company expenditures on training and continuing education for child care workers.

The credit would be 25 percent for these activities, and 10 percent for the cost of a company's contract with a non-profit Child Care Resource and Referral service, which help parents locate child care in their communities. The credit is capped at $150,000 per year. Safeguards in the legislation ensure that the companies receive the tax credits for capital expenditures that go toward facilities that stay in operation for several years.

In 1997, the Senate passed a similar proposal by a bipartisan vote of 72–28. Versions of this tax credit have been included in most major child care legislation introduced by Democrats and Republicans in the 106th Congress, including the tax bill passed by the Senate in July of 1999.

This bill makes us all partners in ensuring we have enough quality child care for working families. I hope my colleagues will continue their long-time support of the child care infrastructure tax credit, and I look forward to working with all of you to pass it this year.

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

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

S. 99

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 ''Child Care Infrastructure Act of 2001''.

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) 25 percent of the qualified child care expenditures, and

''(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(i) to acquire, construct, rehabilitate, or expand property—

''(I) which is to be used as part of a qualified child care facility of the taxpayer,

''(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

''(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

''(I) day care and before and after school care,

''(II) transportation associated with such care, and

''(III) before and after school and holiday programs including educational and recreational programs and camp programs.

''(B) FAIR MARKET VALUE.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

''(B) NONDISCRIMINATION.—The services shall not be treated as qualified unless the provision of such services (or the eligibility to use such services) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85

Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the employer-provided child care credit determined under section 45E.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45E. Employer-provided child care credit.''

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following:

''(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. GRAHAM. Mr. President, I am extremely pleased to join my colleague Senator KOHL in introducing the Child Care Infrastructure Act of 2001. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation grants tax credits to employers who assist their employees with child care expenses, either by providing child care on-site, reimbursing employees for the cost of child care, or establishing a referral service to help employees locate a child care provider.

An employer is eligible for an income tax credit equal to 25 percent of its child care expenses. Expenses eligible for the credit include:

The cost of acquiring, constructing, rehabilitating or expanding employer property used to provide employees with child care;

the cost of operating an employer child care facility;

costs incurred under a contract with a qualified child care facility to provide child care services to employees; and

to reimburse employees for the cost of child care.

Employers may also be eligible for a separate credit equal to 10 percent of child care resource and referral expenses.

The bill establishes an overall limit on the amount of child care credits an employer can qualify to receive. That limit is $150,000 per year.

Why is this legislation important?

First, the workplace has changed over the years. In 1947, one in four mothers with children between the ages of 6 and 17 were in the labor force. By 1996, their labor force participation rate had tripled to nearly three in four.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family, rich or poor.

In June of 1998, I hosted a Florida statewide summit on child care where over 500 residents of my State shared with me their concerns and frustrations on child care issues. They told me that quality child care is either unavailable or unaffordable.

Those who had found affordable child care often were faced with long waiting lists.

They told me that working parents struggle to cope with the often conflicting time demands of work and child care.

They told me of their concerns with school-age children who often are at risk because before and after-school supervised care programs are not readily available.

Mr. President, quality child care should be a concern to all Americans. The care and nurturing that children receive early in life has a profound influence on their future—and their future is our future.

In the 21st century, women will comprise more than 60 percent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of 6.

The implications for employers are clear. They understand the rapidly changing nature of our Nation's work force and that those employers who can help their employees with child care will have a competitive advantage.

Many smaller businesses would like to join them, but do not have the resources to offer child care to their employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important legislation.

By Mr. ALLARD:

S. 100. A bill to amend the Internal Revenue Code of 1986 to repeal the state and gift taxes; to the Committee on Finance.

TIME TO END THE DEATH TAX

Mr. ALLARD. Mr. President, today I am introducing legislation to immediately eliminate the estate tax. I fundamentally oppose the estate tax. I call it the ''death tax.'' This unfair tax has been a concern of mine for some time now.

Congress has clearly demonstrated its support for easing this burden. The Taxpayer Relief Act of 1997 gradually increases the exemption. Last year, Congress decided that further action was needed and passed a bill that would have eliminated the federal estate tax. Unfortunately, President Clinton chose to veto that bill. I look forward to the opportunity to work with the new Administration to repeal this unfair tax by passing my bill.

The United States has one of the highest estate taxes in the world. While income tax rates have declined in recent decades, estate taxes have remained high. Today, the death tax is imposed on estates with assets of more than $675,000. The rates begin at 37% and very rapidly rise to 55%. Some estates even pay a marginal rate of 60%.

This issue really hits home for me. Family farms and small businesses are two of the groups most affected by the estate tax. I grew up on my family's farm in Colorado, and I owned a small business before I came to Washington. So, I truly understand the concerns of those who live in fear of the impact that this tax will have on their legacy to their children.

The estate tax has resulted in the loss of family farms and family businesses across the nation. Many people work their entire lives to build a business that they can pass on to their children. When these hard-working businessmen and farmers pass away, their families are often forced to sell off the business to pay the estate tax. I see this as an affront to those who try to pass on the fruits of their lives' work to their children.

The people affected by this tax are not necessarily wealthy. Many small business people are cash poor, but asset rich. For example, the owner of a small restaurant might have $800,000 of assets, but not much cash on hand. Her children will still have to pay an excessive tax on the assets. The beer wholesaler, who has invested all of his revenue in trucks and storage, might have more than $675,000 in assets. That does not make him a cash-wealthy man. Yet, he is still subject to this so-called ''tax on the wealthy.''

The death tax also impacts employment and the economy. When a family-owned farm or a small business closes, the workers lose their jobs. Conversely, leaving resources in the economy can create jobs. A recent George Mason study found that if the estate tax were phased out over five years, the economy would create 198,895 more jobs, and grow by an additional $509 billion over a ten-year period.

Additionally, the estate tax is a disincentive for Americans to save their earnings. The government has created a number of tax breaks and other incentives for those who save their money: 401(k)s and IRAs—to name a few. Yet, the estate tax sends a contradictory message. Basically, it says, ''If you don't spend all your savings by the time you die, the government will penalize you.'' This tax is no small penalty, either. We are talking about some very high tax rates.

The death tax also represents an unjust double taxation. The savings were taxed initially when they were earned. Then, when the saver passes away, the government comes along and takes a second cut. There is no good reason for the current system—other than the government's desire to make a profit at the already trying time of the death of a dear one.

The current death tax law has a greater effect on the lower end of the scale than the higher. Wealthy people can afford lawyers and planners to help them plan their estate. Those at the lower end of the estate tax scale are often unable to afford sophisticated estate planning. So the current law also makes the tax somewhat regressive, which is not fair.

Planning and compliance with the estate tax can consume substantial resources. In 1995, the Gallup organization surveyed family firms. Twenty-three percent of owners of companies valued over $10 million said that they pay more than $50,000 per year in insurance premiums on policies to help them pay the eventual bill. To plan for the estate tax, the firms also spent an average of $33,000 on lawyers, accountants and financial planners, over a period of several years. This is money that could have been better spent to expand the business and create new jobs—rather than dealing with the death tax.

The estate tax only raises one percent of federal revenue, yet it costs farms, businesses and jobs. No American family should lose their farm or business because of the federal government. I support full repeal of the federal estate tax.

Mr. President, I ask unanimous consent that the text of my bill, as well as an article that I recently wrote, be entered into the RECORD.

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

S. 100

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Death Tax Termination Act of 2001.''

SEC. 2. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate, gift, and generation-skipping taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2000.

[From the Roll Call, Apr. 27, 1998]

ESTATE TAX REFORM MUST BE FIRST STEP TO FIXING SYSTEM

(By Sen. Wayne Allard)

As we approach the new millennium, a consensus has emerged in favor of significant tax reform. Some prefer the flat tax; others advocate the sales tax. A third camp argues that Congress should avoid a complete overhaul and instead work to improve the existing system.

Whatever path is chosen, it should include elimination of the federal estate tax. Repeal of the estate tax is the first step toward a fairer and flatter tax system.

Congress has levied estate taxes at various times throughout US history, particularly during war. The current estate tax dates back to 1916, a time when many in Congress were looking for ways to redistribute some of the wealth held by a small number of super-rich families. This first permanent estate tax had a top rate of only 10 percent, and the threshold was high enough to ensure that the tax affected only a tiny fraction of the population.

Like the rest of our tax code, it did not take long for this limited tax to evolve into a more substantial burden. In only the second year of the tax, the top rate was increased to 25 percent. By 1935, the top rate was 70 percent, and in 1941, it reached an all-time high of 77 percent.

While income tax rates have declined in recent decades, estate taxes have remained high. Today, the top estate tax rate is 55 percent (a top marginal rate of 60 percent is paid by some estates), and the tax is imposed on amounts above the 1998 exemption level of $625,000 (value above $625,000 is taxed at an initial rate of 37 percent).

Generally, the value of all assets held at death is included in the estate for purposes of assessing the tax—this includes residences, business assets, stocks, bonds, savings, personal property, etc. Estate tax returns are due within nine months of the decedent's death (a six-month extension is available), and with the exception of certain closely held businesses, the tax is due when the return is filed. The tax is paid by the estate rather than by the beneficiary (in contrast to an inheritance tax).

Last year's tax bill increased the unified estate and gift tax exemption from $600,000 to $1 million. However, this is done very gradually and does not reach the $1 million level until 2006. The bill also increased the exemption amount for a qualified family-owned business to $1.3 million.

While both actions are a good first step, they barely compensate for the effects of inflation. The $600,000 exemption level was last set in 1987; just to keep pace with inflation the exemption should have risen to $850,000 by 1997. Incremental improvements help, but we need more substantial reform.

The United States retains among the highest estate taxes in the world. Among industrial nations, only Japan has a higher top rate than we do. But Japan's 70 percent rate applies to an inheritance of $16 million or more. The US top rate of 55 percent kicks in on estates of $3 million or more. France, the United Kingdom and Ireland all have top rates of 40 percent, and the average top rate of Organization for Economic Cooperation and Development countries is only 29 percent. Australia, Canada and Mexico presently have no estate taxes.

The strongest argument that supporters of the estate tax make is that most American families will never have to pay an estate tax. While this is true, it does not justify retention of a tax that causes great harm to family businesses and farms, often constitutes double taxation, limits economic growth

consumes significant resources in unproductive tax compliance activities and raises only a tiny portion of federal tax revenues. In other words, the estate tax is not worth all the trouble.

The estate tax can destroy a family business. This is the most disturbing aspect of the tax. No American family should lose its business or farm because of the estate tax. Current estimates are that more than 70 percent of family businesses do not survive the second generation, and 87 percent do not survive the third generation.

While there are many reasons for these high numbers, the estate tax is certainly one of them. The estate tax fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets in order to pay the tax. This practice can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized.

Similarly, more and more large ranches and farms are facing the prospect of breakup and sale to developers in order to pay the estate tax. In addition to destroying a family business, this harms the environment.

The accounting firm Price Waterhouse recently calculated the taxable components of 1995 estates. While 21 percent of assets were corporate stocks and bonds, and another 21 percent were mutual fund assets, fully 32 percent of gross estates consisted of ''business assets'' such as stock in closely held businesses, interests in non-corporate businesses and farms and interests, in limited partnerships. In larger estates, this portion rose to 55 percent. Clearly, a substantial portion of taxable estates consists of family businesses.

The National Center for Policy Analysis reports that a 1995 survey by Travis Research Associates found that 51 percent of family businesses would have significant difficulty surviving the estate tax, and 30 percent of respondents said they would have to sell part or all of their business. This is supported by a 1995 Family Business Survey conducted by Matthew Greenwald and Associates which found that 33 percent of family businesses anticipate having to liquidate or sell part of their business to pay the estate tax.

While some businesses are destroyed by the estate tax, many more expend substantial resources in tax planning and compliance. Those that survive the estate tax often do so by purchasing expensive insurance. A 1995 Gallup survey of family firms found that 23 percent of the owners of companies valued at more than $10 million pay $50,000 or more per year in insurance premiums on policies designed to help them pay the eventual tax bill. The same survey found that family firms estimated they had spent on average more than $33,000 on lawyers, accountants and financial planners over a period of six and a half years in order to prepare for the estate tax.

In fact, one of the great ironies of the estate tax is that an extensive amount of tax planning can very nearly eliminate the tax. This results in a situation in which the very wealthy can end up paying less estate tax than those of more modest means.

As noted above, life insurance can play a big role in estate planning, but there are also mechanisms such as qualified personal residence trusts, charitable remainder trusts, charitable lead trusts, generation-skipping trusts and the effective use of annual gifts. While these mechanisms may reduce the tax, they waste resources that could be put to much better use growing businesses and creating jobs.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized; it should not be repeatedly retaxed by government. The estate tax violates this tenet. At the time of a person's death, much of his or her savings, business assets or farm assets have already been subjected to federal, state and local tax. These same assets are then taxed again under the estate tax. Price Waterhouse has calculated that those families who will be liable for the estate tax face the prospect of nearly 73 percent of every dollar being taxed away.

Repeal of the estate tax would benefit the economy. Without the estate tax, greater business resources could be put toward productive economic activities. Recently, the Center for the Study of Taxation commissioned George Mason University professor Richard Wagner to estimate the economic impact of a phase-out of the estate tax.

Wagner estimated that if the tax is phased out over five years beginning in 1999, the economy would create 189,900 more jobs and would grow by an additional $509 billion over a ten-year-period. Similarly, a recent Heritage Foundation study simulated the results of an estate tax repeal under two respected economic models, the Washington University Macro Model, and the Wharton Econometric Model. Under both models, a repeal of the tax is forecast to increase jobs and gross domestic product, as well as reduce the cost of capital.

One might expect that with all the economic dislocation associated with the estate tax that it raises a significant amount of revenue or accomplishes a redistributionist social policy. In fact, the revenue take is quite modest—approximately one percent of federal revenue or $14.7 billion in 1995. And as for social policy, the ability of the federal government to equalize wealth through the estate tax may be quite limited. A 1995 study published by the Rand Corporation found that for the very wealthiest Americans, only 7.5 percent of their wealth is attributable to inheritance—the other 92.5 percent is from earnings.

America is a nation of tremendous economic opportunity. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth.

The estate tax is a relic. It damages family businesses, harms the economy and constitutes double taxation. It is time for the estate tax to go.

By Mr. BINGAMAN:

S. 101. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

QUALITY TEACHERS FOR ALL ACT

Mr. BINGAMAN. Mr President, today I am pleased to introduce a package of bills related to education for consideration in the context of the reauthorization of the Elementary and Secondary Education Act (''ESEA''). I believe the issue of accountability for results will be at the center of our debate this year so I will introduce and speak about that bill separately. Nevertheless, I believe that we need to increase our investment in education while increasing our expectations for results from our schools. In that context, we should be sure to target that investment on problems with national implications and strategies and programs that we know work. At this time, I am introducing three bills that I believe meet that criteria: The Quality Teachers for All Act, The National Dropout Prevention Act and the Access to High Standards Act. All of these bills provide support for efforts on the local level to raise standards for our schools, our teachers and our students.

Improving teacher quality continues to be one of my top priorities in the Senate because research indicates that teacher quality is one of the most important factors in student achievement. The Quality Teachers for All Act addresses the fact that, although the vast majority of our teacher's are dedicated, professional and competent, far too many schools in America allow classrooms to be lead by teachers with insufficient training and qualifications. Unfortunately, it is the schools and classrooms with the neediest children who have the largest number of unqualified teachers. While we are demanding increased levels of performance for our schools and our children, we must also set high standards for all our teachers, including those who instruct student who must overcome the greatest barriers to learning.

The Quality Teachers for All Act requires that all teachers in schools that receive Title 1 funds be fully qualified. This means that they possess necessary teaching skills and demonstrate mastery in the subjects that they teach. It provides that an elementary school teacher must have state certification, hold a bachelor's degree and demonstrate subject matter knowledge, teaching knowledge and teaching skills required to teach effectively in reading, writing, mathematics, social studies, science and other elements of a liberal arts education. Middle and secondary school teachers must have state certification, hold a bachelor's degree, and demonstrate competence in all subject areas that they teach. This demonstration of competence may be achieved by a high level of performance on a rigorous academic subject area test, completion of an academic major (or an equal number of courses). The bill ensures that low income students are not disproportionately impacted by low teaching standards by requiring that teachers in high poverty schools be at least as well-qualified, in terms of experience and credentials as the instructional staff in schools served by the same local educational agency that are not high poverty schools.

In order to help states and LEAs meet these requirements, the bill will provide grants to assist states and LEAs in providing the necessary education or training for individuals who are teaching without full qualifications. In addition, recognizing that some communities have difficulty attracting qualified teachers, the bill allows funds to be used to provide financial incentives (i.e., signing bonuses) for fully qualified teachers. In addition, the bill supports efforts to recruit new teachers by providing allowing funds to be used to develop alternative means of certification for highly qualified individuals with college degrees

wishing to teach, including mid-career professionals and former military personnel. The bill also authorizes funds to support State efforts to increase the portability of teacher's pensions, certification and years of experience so that teachers have greater mobility and school districts can fill vacant teaching positions with teachers who are fully-qualified. The funds may also be used for programs of support for new teachers to ensure that they are more likely to remain in the nation's teaching force.

In order to make parents our partners in our efforts to raise teaching standards, this bill requires districts and schools to provide parents with information about the qualifications of their child's teacher. These provisions build on legislation I authored that became part of the Higher Education Act of 1998 requiring a national report card on teacher training programs. The parental right to know provision in the Quality Teachers for All Act will empower parents by informing them of the strengths and weaknesses of their children's teachers, helping them to support the push for fully-qualified teachers in every classroom.

The National Dropout Prevention Act is a bill designed to reduce the dropout rate in our nation's schools through the use and dissemination of effective dropout prevention programs. While much progress has been made in encouraging all student to complete high school, the nation remains far from its goal of a 90 percent graduation rate for students, a goal that was to be attained in the year 2000. In fact, none of the states with large and diverse populations have yet come close to this goal and dropout rates approaching 50 percent between ninth grade and the senior year are commonplace in some of the most disadvantaged of our nation's communities. This bill is based on many of the findings of the National Hispanic Dropout Project, a group of nationally recognized experts assembled in 1996–97 to help find ways of reducing the high dropout rates among Hispanic and other at-risk students. The group pointed out that there are widespread misconceptions about why so many student drop out of school and that there is little familiarity with proven drop out prevention programs. Most problematic is the fact that there is currently no concerted federal effort to provide or coordinate effective and proven dropout prevention programs or oversee the multitude of programs that include dropout prevention as a component.

The Act makes lowering the dropout rate a national priority. A national clearinghouse on effective school drop out prevention, intervention and reentry programs would be created and efforts to prevent students from dropping out would be identified and disseminated. The bill provides support and recognition for schools engaged in effective dropout prevention efforts. In addition, this bill provides funds to pay the startup and implementation costs of effective, sustainable, coordinated and whole school dropout prevention programs. Funds can be used to implement comprehensive school wide reforms, create alternative school programs or create smaller learning communities. In addition, grant recipients could contract with community-based organizations to assist them in implementing necessary services.

The Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United states, serving over 1.5 million students last year. Many states that have advanced placement incentive programs have already had tremendous success in increasing participation rates, raising achievement and increasing the involvement of low-income and under served students. Nevertheless, students, especially low-income students, continue to be denied or have limited access to this important educational resource. Over forty percent of our nation's public schools still do not offer any Advanced Placement courses. As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making it difficult for many students to afford the high costs of obtaining a college education. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico and the credits granted to AP students nationwide are worth billions of dollars in savings each year.

By promoting AP courses, we also address the need to raise academic standards. AP courses provide schools with high academic standards and standardized achievement measures. Participating in AP courses helps student prepare for college as they serve to connect curriculum between high school and post secondary institutions. And, because the vast majority of AP teachers teach several non-AP courses as well, AP programs have the effect of raising school wide standards and achievement. Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement of our students. However, I believe that high college costs and low academic standards deserve our close attention and I am confident that expansion of advanced placement programs will help states address these issues effectively.

In order to ensure that our children are well-prepared to meet the challenges of an increasingly complex and challenging world, it is critical to address improving our nation's school with a comprehensive effort. The bills I introduce today are designed to build on the progress we have made in the past few years to raise standards and increase accountability in America's schools. I ask unanimous consent to have the bills printed in the record at the conclusion of my remarks. I urge my colleagues to carefully consider supporting passage of these bills.

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

S. 101

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 ''Quality Teachers for All Act''.

TITLE I—PARENTAL RIGHTS

SEC. 101. PARENTAL RIGHT TO KNOW.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

''SEC. 14515. TEACHER QUALIFICATIONS.

''Any public elementary school or secondary school that receives funds under this Act shall provide to the parents of each student enrolled in the school information regarding—

''(1) the professional qualifications of each of the student's teachers, both generally and with respect to the subject area in which the teacher provides instruction; and

''(2) the minimum professional qualifications required by the State for teacher certification or licensure.''.

TITLE II—TEACHER QUALITY

SEC. 201. TEACHER QUALITY.

(a) IN GENERAL.—Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(1) by redesignating subsections (c) through (g) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (b) the following:

''(c) TEACHER QUALITY.—

''(1) STATE STANDARDS AND POLICIES.—Each State plan shall contain assurances, with respect to schools served under this part, that—

''(A) no student in those schools in the State will be taught for more than 1 year by an elementary school teacher, or for more than 2 consecutive years in the same subject by a secondary school teacher, who has not demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the teacher provides instruction;

''(B) the State provides incentives for teachers in those schools to pursue and achieve advanced teaching and subject area content standards;

''(C) the State has in place effective mechanisms to ensure that local educational agencies and schools served under this part are able—

''(i) to recruit effectively fully qualified teachers;

''(ii) to reward financially those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators; and

''(iii) to remove expeditiously incompetent or unqualified teachers consistent with procedures to ensure due process for teachers;

''(D) the State aggressively helps those schools, particularly in high need areas, recruit and retain fully qualified teachers;

''(E) during the period that begins on the date of enactment of the Quality Teachers for All Act and ends 4 years after such date, elementary school and secondary school teachers in those schools will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the same local educational agency that are not schools served under this part; and

''(F) any teacher who meets the standards set by the National Board for Professional Teaching Standards will be considered fully qualified to teach in those schools in any school district or community in the State.

''(2) QUALIFICATIONS OF CERTAIN INSTRUCTIONAL STAFF.—

''(A) IN GENERAL.—Each State plan shall contain assurances that, not later than 4 years after the date of enactment of the Quality Teachers for All Act—

''(i) all instructional staff who provide services to students under section 1114 or 1115 will have demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, according to the criteria described in this paragraph; and

''(ii) funds provided under this part will not be used to support instructional staff—

''(I) who provide services to students under section 1114 or 1115; and

''(II) for whom State qualification or licensing requirements have been waived or who are teaching under an emergency or other provisional credential.

''(B) ELEMENTARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of making the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches elementary school students shall, at a minimum—

''(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

''(ii) hold a bachelor's degree and demonstrate subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

''(C) MIDDLE SCHOOL AND SECONDARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of making the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches in middle schools and secondary schools shall, at a minimum—

''(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

''(ii) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all subject areas in which the staff member teaches through—

''(I) achievement of a high level of performance on rigorous academic subject area tests;

''(II) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the subject areas in which the staff member provides instruction; or

''(III) achievement of a high level of performance in relevant subject areas through other professional employment experience.

''(D) TEACHER AIDES AND OTHER PARAPROFESSIONALS.—For purposes of subparagraph (A) funds provided under this part may be used to employ teacher aides or other paraprofessionals who do not meet the requirements under subparagraphs (B) and (C) only if such aides or paraprofessionals—

''(i) provide instruction only when under the direct and immediate supervision, and in the immediate presence, of instructional staff who meet the criteria of this paragraph; and

''(ii) possess particular skills necessary to assist instructional staff in providing services to students served under this Act.

''(E) USE OF FUNDS.—Each State plan shall contain assurances that, beginning on the date of enactment of the Quality Teachers for All Act, no school served under this part will use funds received under this Act to hire instructional staff who do not fully meet all the criteria for instructional staff described in this paragraph.

''(F) DEFINITION.—In this paragraph, the term 'instructional staff' includes any individual who has responsibility for providing any student or group of students with instruction in any of the core academic subject areas, including reading, writing, language arts, mathematics, science, and social studies.

''(d) ASSISTANCE BY STATE EDUCATIONAL AGENCY.—Each State plan shall describe how the State educational agency will help each local educational agency and school in the State develop the capacity to comply with the requirements of this section.

''(e) CORRECTIVE ACTION.—The appropriate State educational agency shall take corrective action consistent with section 1116(c)(5)(B)(i), against any local educational agency that does not make sufficient effort to comply with subsection (c). Such corrective action shall be taken regardless of the conditions set forth in section 1116(c)(5)(B)(ii). In a case in which the State fails to take the corrective action, the Secretary shall withhold funds from such State up to an amount equal to that reserved under sections 1003(a) and 1603(c).''.

(b) INSTRUCTIONAL AIDES.—Section 1119 of Elementary and Secondary Education Act of 1965 (20 U.S.C. 6320) is amended by striking subsection (i).

SEC. 202. FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

Title I of the Elementary and Secondary Education Act of 1965 is amended by inserting after section 1119 (20 U.S.C. 6320) the following new sections:

''SEC. 1119A. A FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants, on a competitive basis, to States or local educational agencies, to assist schools that receive assistance under this part by carrying out the activities described in paragraph (3).

''(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State or local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(3) USES OF FUNDS.—

''(A) STATES.—In order to meet the goal under section 1111(c)(2) of ensuring that all instructional staff in schools served under this part have the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, a State may use funds received under this section—

''(i) to collaborate with programs that recruit, place, and train fully qualified teachers;

''(ii) to provide the necessary education and training, including establishing continuing education programs and paying the costs of tuition at an institution of higher education and other student fees (for programs that meet the criteria under section 203(b)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1023(b)(2)(A)(i))), to help teachers or other school personnel who do not meet the necessary qualifications and licensing requirements to meet the requirements, except that in order to qualify for a payment of tuition or fees under this clause an individual shall agree to teach for each of at least 2 subsequent academic years after receiving such degree in a school that—

''(I) is located in a school district served by a local educational agency that is eligible in that academic year for assistance under this title; and

''(II) for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) exceeds 50 percent of the total enrollment of that school;

''(iii) to establish, expand, or improve alternative means of State certification of teachers for highly qualified individuals with a minimum of a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent graduates of an institution of higher education with records of academic distinction who demonstrate the potential to become highly effective teachers;

''(iv) for projects to increase the portability of teacher pensions or credited years of experience or to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this clause or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement; or

''(v) to establish, expand, or improve induction programs designed to support new teachers and promote retention of new teachers in schools served under this part.

''(B) LOCAL EDUCATIONAL AGENCIES.—In order to meet the goal described in subparagraph (A), a local educational agency may use funds received under this section—

''(i) to recruit fully qualified teachers, including through the use of signing bonuses or other financial incentives; and

''(ii) to carry out the activities described in clauses (i), (ii), and (v) of subparagraph (A).

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $500,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.

''(b) OTHER ASSISTANCE.—Notwithstanding any other provision of law, in order to meet the goal described in subsection (a)(3)(A)—

''(1) a State receiving assistance under title II, title VI, title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), or the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) may use such assistance for the activities described in subsection (a)(3)(A); and

''(2) a local educational agency receiving assistance under an authority described in paragraph (1) may use such assistance for the activities described in subsection (a)(3)(B).

''SEC. 1119B. CERTIFICATION GRANTS.

''(a) GRANTS.—The Secretary may make grants to State educational agencies, local educational agencies, or schools that receive assistance under this part to pay for the Federal share of the cost of providing financial assistance to teachers in such schools who obtain certification from the National Board of Professional Teaching Standards.

''(b) APPLICATION.—To be eligible to receive a grant under this section an agency or school shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) ELIGIBLE TEACHERS.—To be eligible to receive financial assistance under subsection (a), a teacher shall obtain the certification described in subsection (a).

''(d) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.''.

SEC. 203. LIMITATION.

Part E of title XIV of the Elementary and Secondary Education Act of 1965, as amended in section 101, is further amended by adding at the end the following:

''SEC. 14516. PROHIBITION REGARDING PROFESSIONAL DEVELOPMENT SERVICES.

''None of the funds provided under this Act may be used for any professional development services for a teacher that are not directly related to the curriculum and subjects in which the teacher provides or will provide instruction.''.

By Mr. BINGAMAN (for himself and Mr. REID):

S. 102. A bill to provide assistance to address school dropout problems; to the Committee on Health, Education, Labor, and Pensions.

DROPOUT PREVENTION LEGISLATION

Mr. BINGAMAN. 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. 102

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

SECTION 1. ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS.

Part D of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6421 et seq.) is amended by adding at the end the following:

''Subpart 4—Assistance to Address School Dropout Problems

''SEC. 1441. SHORT TITLE.

''This subpart may be cited as the 'Dropout Prevention Act'.

''SEC. 1442. PURPOSE.

''The purpose of this subpart is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants, to schools through State educational agencies, that—

''(1) challenge all children to attain their highest academic potential; and

''(2) ensure that all students have substantial and ongoing opportunities to do so through schoolwide programs proven effective in school dropout prevention.

''Chapter 1—Coordinated National Strategy

''SEC. 1451. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to collect systematic data on the participation in the programs described in paragraph (2)(C) of individuals disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

''(2) to establish and to consult with an interagency working group which shall—

''(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention;

''(B) describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under title I and the School-to-Work Opportunities Act of 1994; and

''(C) address all Federal programs with school dropout prevention or school reentry elements or objectives, programs under title I of this Act, the School-to-Work Opportunities Act of 1994, subtitle C of title I of the Workforce Investment Act of 1998, and other programs; and

''(3) carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized.

''(b) RECOGNITION PROGRAM.—

''(1) NATIONAL GUIDELINES.—The Secretary shall develop uniform national guidelines for the recognition program which shall be used to recognize schools from nominations submitted by State educational agencies.

''(2) ELIGIBLE SCHOOLS.—The Secretary may recognize under the recognition program any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

''(3) SUPPORT.—The Secretary may make monetary awards to schools recognized under the recognition program in amounts determined by the Secretary. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

''(c) CAPACITY BUILDING.—

''(1) IN GENERAL.—The Secretary, through a contract with a non-Federal entity, may conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

''(2) NUMBER AND DURATION.—

''(A) NUMBER.—The Secretary may award not more than 5 contracts under this subsection.

''(B) DURATION.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

''(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

''(1) IN GENERAL.—The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this chapter.

''(2) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that, prior to the date of enactment of the Dropout Prevention Act—

''(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

''(B) developed and published a specific educational program or design for use by the schools.

''Chapter 2—National School Dropout Prevention Initiative

''SEC. 1461. PROGRAM AUTHORIZED.

''(a) GRANTS.—

''(1) DISCRETIONARY GRANTS.—If the sum appropriated under section 1472 for a fiscal year is less than $250,000,000, then the Secretary shall use such sum to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award grants under subsection (b).

''(2) FORMULA.—If the sum appropriated under section 1472 for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such sum to make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under part A of title I for the preceding fiscal year bears to the amount received by all States under such part for the preceding fiscal year.

''(3) DEFINITION OF STATE.—In this chapter, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(b) GRANTS.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public middle schools or secondary schools that serve students in grades 6 through 12, that have school dropout rates which are the highest of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

''(1) professional development;

''(2) obtaining curricular materials;

''(3) release time for professional staff;

''(4) planning and research;

''(5) remedial education;

''(6) reduction in pupil-to-teacher ratios;

''(7) efforts to meet State student achievement standards;

''(8) counseling and mentoring for at-risk students; and

''(9) comprehensive school reform models.

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d) and except as provided in paragraph (2), a grant under this chapter shall be awarded—

''(A) in the first year that a school receives a grant payment under this chapter, based on factors such as—

''(i) school size;

''(ii) costs of the model or set of prevention and reentry strategies being implemented; and

''(iii) local cost factors such as poverty rates;

''(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this chapter in the first such year;

''(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this chapter in the first such year; and

''(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this chapter in the first such year.

''(2) INCREASES.—The Secretary shall increase the amount awarded to a school under this chapter by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

''(d) DURATION.—A grant under this chapter shall be awarded for a period of 3 years, and

may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1467(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this chapter compared to students at similar schools who are not participating in the program.

"SEC. 1462. STRATEGIES AND CAPACITY BUILDING.

''Each school receiving a grant under this chapter shall implement research-based, sustainable, and widely replicated, strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

''(1) specific strategies for targeted purposes, such as effective early intervention programs designed to identify at-risk students, effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school, and effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

''(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

"SEC. 1463. SELECTION OF SCHOOLS.

''(a) SCHOOL APPLICATION.—

''(1) IN GENERAL.—Each school desiring a grant under this chapter shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) contain a certification from the local educational agency serving the school that—

''(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

''(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

''(iii) the local educational agency will support the plan, including—

''(I) release time for teacher training;

''(II) efforts to coordinate activities for feeder schools; and

''(III) encouraging other schools served by the local educational agency to participate in the plan;

''(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this chapter, and provide evidence of the school's willingness and ability to use the funds under this chapter, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

''(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

''(D) describe a budget and timeline for implementing the strategies;

''(E) contain evidence of coordination with existing resources;

''(F) provide an assurance that funds provided under this chapter will supplement and not supplant other Federal, State, and local funds;

''(G) describe how the activities to be assisted conform with research-based knowledge about school dropout prevention and reentry; and

''(H) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under section 1114.

''(b) STATE AGENCY REVIEW AND AWARD.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

''(c) ELIGIBILITY.—A school is eligible to receive a grant under this chapter if the school is—

''(1) a public school (including a public alternative school)—

''(A) that is eligible to receive assistance under part A of title I, including a comprehensive secondary school, a vocational or technical secondary school, or a charter school; and

''(B)(i) that serves students 50 percent or more of whom are low-income individuals; or

''(ii) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

''(2) participating in a schoolwide program under section 1114 during the grant period.

''(d) COMMUNITY-BASED ORGANIZATIONS.—A school that receives a grant under this chapter may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

''(1) the school approves the use;

''(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

''(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 122 of the Workforce Investment Act of 1998.

''(e) COORDINATION.—Each school that receives a grant under this chapter shall coordinate the activities assisted under this chapter with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 and the School-to-Work Opportunities Act of 1994.

"SEC. 1464. DISSEMINATION ACTIVITIES.

''Each school that receives a grant under this chapter shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

"SEC. 1465. PROGRESS INCENTIVES.

''Notwithstanding any other provision of law, each local educational agency that receives funds under title I shall use such funding to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this chapter for 2 fiscal years.

"SEC. 1466. SCHOOL DROPOUT RATE CALCULATION.

''For purposes of calculating a school dropout rate under this chapter, a school shall use—

''(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

''(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

"SEC. 1467. REPORTING AND ACCOUNTABILITY.

''(a) REPORTING.—In order to receive funding under this chapter for a fiscal year after the first fiscal year a school receives funding under this chapter, the school shall provide, on an annual basis, to the Secretary and the State educational agency a report regarding the status of the implementation of activities funded under this chapter, the outcome data for students at schools assisted under this chapter disaggregated in the same manner as information under section 1451(a) (such as dropout rates), and certification of progress from the eligible entity whose strategies the school is implementing.

''(b) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Secretary shall evaluate the effect of the activities assisted under this chapter on school dropout prevention compared to a control group.

"SEC. 1468. STATE RESPONSIBILITIES.

''(a) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State disaggregated in the same manner as information under section 1451(a), according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

''(b) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

''(1) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

''(2) specific incentives for retaining enrolled students throughout each year.

''(c) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall develop uniform, long-term suspension and expulsion policies (that in the case of a child with a disability are consistent with the suspension and expulsion policies under the Individuals with Disabilities Education Act) for serious infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.

''(d) REGULATIONS.—The Secretary shall promulgate regulations implementing subsections (a) through (c).

"Chapter 3—Definitions; Authorization of Appropriations

"SEC. 1471. DEFINITIONS.

''In this subpart:

''(1) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5).

''(2) SCHOOL DROPOUT.—The term 'school dropout' has the meaning given the term in section 4(17) of the School-to-Work Opportunities Act of 1994.

"SEC. 1472. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart, $250,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

''(1) 10 percent shall be available to carry out chapter 1; and

''(2) 90 percent shall be available to carry out chapter 2.''.

Mr. BINGAMAN (for himself, Mrs. HUTCHISON, and Ms. COLLINS):

S. 103. A bill to provide for advanced placement programs; to the Committee on Health, Education, Labor, and Pensions.

ADVANCED PLACEMENT PROGRAMS

Mr. BINGAMAN. 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:

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

SECTION 1. ADVANCED PLACEMENT PROGRAMS.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART L—ADVANCED PLACEMENT PROGRAMS

"SEC. 10995A. SHORT TITLE.

''This part may be cited as the 'Access to High Standards Act'.

"SEC. 10995B. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) far too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities, college dropout rates of over 25 percent for the first year of college, and remediation for almost one-third of incoming college freshmen;

''(2) there is a growing consensus that raising academic standards, establishing high academic expectations, and showing concrete results are at the core of improving public education;

''(3) modeling academic standards on the well-known program of advanced placement courses is an approach that many education leaders and almost half of all States have endorsed;

''(4) advanced placement programs already are providing 30 different college-level courses, serving almost 60 percent of all secondary schools, reaching over 1,000,000 students (of whom 80 percent attend public schools, 55 percent are females, and 30 percent are minorities), and providing test scores that are accepted for college credit at over 3,000 colleges and universities, every university in Germany, France, and Austria, and most institutions in Canada and the United Kingdom;

''(5) 24 States are now funding programs to increase participation in advanced placement programs, including 19 States that provide funds for advanced placement teacher professional development, 3 States that require that all public secondary schools offer advanced placement courses, 10 States that pay the fees for advanced placement tests for some or all students, and 4 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests; and

''(6) the State programs described in paragraph (5) have shown the responsiveness of schools and students to such programs, raised the academic standards for both students participating in such programs and other children taught by teachers who are involved in advanced placement courses, and shown tremendous success in increasing enrollment, achievement, and minority participation in advanced placement programs.

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

''(1) to encourage more of the 600,000 students who take advanced placement courses but do not take advanced placement exams each year to demonstrate their achievements through taking the exams;

''(2) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Tests (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

''(3) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

''(4) to increase the availability and broaden the range of schools that have advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

''(5) to build on the State programs described in subsection (a)(5) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

''(6) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

''(7) to provide access to advanced placement courses for secondary school juniors at schools that do not offer advanced placement programs, increase the rate of secondary school juniors and seniors who participate in advanced placement courses to 25 percent of the secondary school student population, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded; and

''(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees.

"SEC. 10995C. FUNDING DISTRIBUTION RULE.

''From amounts appropriated under section 10995H for a fiscal year, the Secretary shall give first priority to funding activities under section 10995F, and shall distribute any remaining funds not so applied according to the following ratio:

''(1) Seventy percent of the remaining funds shall be available to carry out section 10995D.

''(2) Thirty percent of the remaining funds shall be available to carry out section 10995E.

"SEC. 10995D. ADVANCED PLACEMENT PROGRAM GRANTS.

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—From amounts appropriated under section 10995H and made available under section 10995C(1) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (c).

''(2) DURATION AND PAYMENTS.—

''(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

''(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

''(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a State educational agency, or a local educational agency, in the State.

''(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to eligible entities submitting applications under subsection (d) that demonstrate—

''(1) a pervasive need for access to advanced placement incentive programs;

''(2) the involvement of business and community organizations in the activities to be assisted;

''(3) the availability of matching funds from State or local sources to pay for the cost of activities to be assisted;

''(4) a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science; and

''(5)(A) in the case of an eligible entity that is a State educational agency, the State educational agency carries out programs in the State that target—

''(i) local educational agencies serving schools with a high concentration of low-income students; or

''(ii) schools with a high concentration of low-income students; or

''(B) in the case of an eligible entity that is a local educational agency, the local educational agency serves schools with a high concentration of low-income students.

''(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

''(1) teacher training;

''(2) preadvanced placement course development;

''(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

''(4) curriculum development;

''(5) books and supplies; and

''(6) any other activity directly related to expanding access to and participation in advanced placement incentive programs particularly for low-income individuals.

''(d) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(e) DATA COLLECTION AND REPORTING.—

''(1) DATA COLLECTION.—Each eligible entity receiving a grant under this section shall annually report to the Secretary—

''(A) the number of students taking advanced placement courses who are served by the eligible entity;

''(B) the number of advanced placement tests taken by students served by the eligible entity;

''(C) the scores on the advanced placement tests; and

''(D) demographic information regarding individuals taking the advanced placement courses and tests disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

''(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

"SEC. 10995E. ONLINE ADVANCED PLACEMENT COURSES.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C(2) for a fiscal year, the Secretary shall award grants to State educational agencies to enable such agencies to award grants to local educational agencies to provide students with online advanced placement courses.

''(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

''(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

''(c) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant award under subsection (b) shall

award grants to local educational agencies within the State to carry out activities described in subsection (e). In awarding grants under this subsection, the State educational agency shall give priority to local educational agencies that—

''(1) serve high concentrations of low-income students;

''(2) serve rural areas; and

''(3) the State educational agency determines will not have access to online advanced placement courses without assistance provided under this section.

''(d) CONTRACTS.—A local educational agency that receives a grant under this section may enter into a contract with a nonprofit or for-profit organization to provide the online advanced placement courses, including contracting for necessary support services.

''(e) USES.—Grant funds provided under this section may be used to purchase the online curriculum, to train teachers with respect to the use of online curriculum, or to purchase course materials.

''SEC. 10995F. ADVANCED PLACEMENT INCENTIVE PROGRAM.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under subsection (c) to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

''(1) are enrolled in an advanced placement class; and

''(2) plan to take an advanced placement test.

''(b) AWARD BASIS.—In determining the amount of the grant awarded to each State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

''(c) INFORMATION DISSEMINATION.—A State educational agency shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

''(d) APPLICATIONS.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

''(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds made available under this section;

''(2) provide an assurance that any grant funds received under this section, other than funds used in accordance with subsection (e), shall be used only to pay for advanced placement test fees; and

''(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

''(e) ADDITIONAL USES OF FUNDS.—If each eligible low-income individual in a State pays not more than a nominal fee to take an advanced placement test in a core subject, then a State educational agency may use grant funds made available under this section that remain after advanced placement test fees have been paid on behalf of all eligible low-income individuals in the State, for activities directly related to increasing—

''(1) the enrollment of low-income individuals in advanced placement courses;

''(2) the participation of low-income individuals in advanced placement courses; and

''(3) the availability of advanced placement courses in schools serving high-poverty areas.

''(f) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this section shall supplement, and not supplant, other non-federal funds that are available to assist low-income individuals in paying for the cost of advanced placement test fees.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

''(h) REPORT.—Each State educational agency annually shall report to the Secretary information regarding—

''(1) the number of low-income individuals in the State who received assistance under this section; and

''(2) any activities carried out pursuant to subsection (e).

''(i) DEFINITIONS.—In this section:

''(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

''(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

''SEC. 10995G. DEFINITIONS.

''In this part:

''(1) ADVANCED PLACEMENT INCENTIVE PROGRAM.—The term 'advanced placement incentive program' means a program that provides advanced placement activities and services to low-income individuals.

''(2) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' means an advanced placement test administered by the College Board or approved by the Secretary.

''(3) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term 'high concentration of low-income students', used with respect to a State educational agency, local educational agency or school, means an agency or school, as the case may be, that serves a student population 40 percent or more of whom are from families with incomes below the poverty level, as determined in the same manner as the determination is made under section 1124(c)(2).

''(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means, other than for purposes of section 10995F, a low-income individual (as defined in section 402A(g)(2) of the Higher Education Act of 1965 who is academically prepared to take successfully an advanced placement test as determined by a school teacher or advanced placement coordinator taking into consideration factors such as enrollment and performance in an advanced placement course or superior academic ability.

''(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

''(6) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''SEC. 10995H. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. BOXER, Mr. SPECTER, Mrs. MURRAY, Ms. COLLINS, Mr. JOHNSON, Mr. WELLSTONE, Mr. LEAHY, Mr. KERRY, Mr. DURBIN, Mr. INOUYE, Mr. AKAKA, Mr. SARBANES, Mr. SCHUMER, Mr. HARKIN, Mrs. CLINTON, and Mr. CORZINE):

S. 104. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Health, Education, Labor, and Pensions.

EQUITABLE COVERAGE UNDER HEALTH PLANS

Mr. REID. Mr. President, I am proud to introduce today, with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 2001 (EPICC).

Our legislation would require insurers, HMOs and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and deductibles for prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

Our bill gives Americans on both sides of the abortion debate the opportunity to join together in the common goal of preventing unintended pregnancies. I am pleased that we have support from both pro-life and pro-choice Senators for this bill.

We are introducing EPICC today—the first legislative day of the 107th Congress—because equity in prescription contraception coverage is long overdue. Senator SNOWE and I first introduced this bill in 1997. Since this time, the Viagra pill went on the market, and one month later was covered by most indemnity policies. Birth control pills, which have been on the market since 1960, are covered by only thirty-three percent of insurance plans.

Most recently, the U.S. Equal Employment Opportunity Commission (EEOC) issued a decision finding that an employer's failure to include insurance coverage for prescription contraceptives in an employee health benefits plan, when it covers other prescription drugs and devices, constitutes unlawful sex discrimination under Title VII of the Civil Rights Act of 1964.

The EEOC ruling is an important step toward ensuring that women have access to affordable contraceptives. At the same time, it highlights the importance of our legislation because title VII applies only to employers; it does not cover insurance providers. An estimated 16 million Americans obtain health insurance from private insurance other than employer-provided plans. Only the enactment of EPICC will ensure that contraceptive coverage is offered by insurance providers.

Our efforts have not been entirely without results. For the past three consecutive years, we have passed a provision in the Treasury-Postal Appropriations bill that requires Federal

health plans to cover prescription contraceptives. It is time to pass EPICC and extend this law to all Americans.

It is time to pass EPICC because EPICC is about equality for women. For all the advances women have made, they still earn 74 cents for every dollar a man makes and on top of that, they pay 68 percent more in out of pocket costs for health care than men. Reproductive health care services account for much of this 68 percent difference. You can be sure, if men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

It is time to pass EPICC because the health industry has done a poor job of responding to women's health needs. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive method at all, and only 15 percent cover all five of the most common contraceptive methods. Women are forced to use disposable income to pay for family planning services not covered by their health insurance. ''The Pill''—one of the most common birth control methods, can cost over $300 a year. Women who lack disposable income are forced to use less reliable methods of contraception.

It is time to pass EPICC because each year approximately 3 million pregnancies, or 50 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, about half end in abortion. Reliable family planning methods must be made available if we wish to reduce this disturbing number.

It is time to pass EPICC because insurance companies routinely cover more expensive services, including abortions, sterilizations and tubal ligations. Yet according to one study in the American Journal of Public Health, health plans would accrue enough savings in pregnancy care costs to cover oral contraceptives for all users under the plan by increasing the number of women who use oral contraceptives by 15 percent. Studies indicate that for every dollar of public funds invested in family planning, four to fourteen dollars of public funds is saved in pregnancy and health care-related costs. Not only will a reduction in unintended pregnancies reduce abortion rates, it will also lead to a reduction in low-birth weight, infant mortality and maternal morbidity.

It is time to pass EPICC because access to contraception will bring down the unintended pregnancy rate, ensure good reproductive health for women, and reduce the number of abortions. It is vitally important to the health of our country that quality contraception is not beyond the financial reach of women. Regardless of where you stand on the abortion issue, prevention is the common ground on which we can all stand. I urge you to join me in supporting EPICC.

Ms. SNOWE. Mr. President, I rise today with my colleague form Nevada, Senator HARRY REID, to reintroduce the Equity in Prescription Insurance and Contraceptive Coverage Act.

Today is the 28th anniversary of the landmark *Roe* v. *Wade* decision—an anniversary which makes it especially poignant to reintroduce EPICC today. There are three million unintended pregnancies every year—half of all pregnancies that occur every year in this country. And frighteningly, approximately half of all unintended pregnancies end in abortion.

I am firmly pro-choice and I believe in a woman's right to a safe and legal abortion when she needs this procedure. But I want abortion to be an option that a woman rarely needs.

The simplest and most effective means of reducing the number of abortions is to reduce the number of unintended pregnancies in America. And the safest and most effective means of preventing unintended pregnancies are with prescription contraceptives. Unfortunately, while the vast majority of insurers cover prescription drugs, they treat prescription contraceptives very differently. In fact, half of large group plans exclude coverage of contraceptives. And only one-third cover oral contraceptives—the most popular form of reversible birth control.

When one realizes the insurance ''carve-out'' for these prescriptions and related outpatient treatments, it is no longer a mystery why women spend 68 percent more than men in out-of-pocket health care costs. No woman should have to forgo or rely on inexpensive and less effective contraceptives for purely economic reasons, knowing that she risks an unintended pregnancy.

For the last three years Congress has required the health plans participating in the Federal Employees Heath Benefit Program—the largest employer-sponsored health insurance plan in the country—to provide prescription contraceptive coverage if they cover prescription drugs as a part of their benefits package. The protections we afford to Members of Congress, their staff, other federal employees and annuitants, and to the approximately two million women of reproductive age who are participating in FEHBP need and deserve to be extended to the rest of the country.

Last December 13, the Equal Employment Opportunity Commission ruled that excluding contraceptives from health insurance plans is a violation of the 1978 Pregnancy Discrimination Act, which requires equal treatment of women ''affected by pregnancy, childbirth or related medical conditions,'' in all aspects of employment, including fringe benefits.

The EEOC said that the Act also protects women against discrimination because they have the ability to become pregnant, not just because they are already pregnant. According to the EEOC's ruling, excluding contraceptives also amounts to sex discrimination because these prescriptions are available only for women. Furthermore, excluding contraceptives due to possible increased costs is not valid—under the Pregnancy Discrimination Act Congress specifically rejected costs as a defense.

Unfortunately, the ruling only applies to the two cases examined by the EEOC and is not a general ''policy guidance'' that would apply to all employers. These two particular health plans must cover contraceptives, the ruling said, because they already cover a wide range of preventive services, including vaccinations, drugs to control blood pressure, weight loss medication and preventive dental care.

Another health plan—one that doesn't cover these services—might not be in violation of the law. But most health plans cover similar services, and the decision announced in December could be used by other women who seek coverage from their employers.

The Pregnancy Discrimination Act—and this EEOC decision—only reaches employers of 15 people or more. The Equity in Prescription Insurance Contraceptive Coverage Act reaches all insurance plans, no matter the size, and includes individual insurance—not just employer-sponsored insurance plans.

The time has come for Congress to act, once and for all, to ensure equity in prescription insurance coverage. The EEOC's decision provides a powerful impetus for action in Congress, and demonstrates the degree of concern through the nation about unfair and discriminatory prescription practices. The EEOC decision highlights the problem; I believe passage of our legislation in Congress is the solution.

Unfortunately, the lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescription drugs which are equally valuable to their lives are routinely covered. Less than half—49 percent—of all large-group health care plans cover any contraceptive method at all and only 15 percent cover the five most common reversible birth control methods. HMOs are more likely to cover contraceptives, but only 39 percent cover all five reversible methods. And ironically, 86 percent of large group plans, preferred provider organizations, and HMOs cover sterilization and between 66 and 70 percent of these different plans do cover abortion.

Thirteen states require their state-regulated health plans to coverage prescription contraceptive: Maryland, Connecticut, Georgia, Hawaii, New Hampshire, Nevada, North Carolina, Vermont, California, Delaware, Iowa, Rhode Island, and my home state of Maine. We need to ensure that this protection is expanded to all states.

The concept underlying EPICC is simple. This legislation says that if insurers cover prescription drugs and devices, they must also cover FDA-approved prescription contraceptives.

And in conjunction with this, EPICC requires health plans which already cover basic health care services to also cover outpatient services related to prescription contraceptives.

The bill does not require insurance companies to cover prescription drugs. What the bill does say is that if insurers cover prescription drugs, they cannot carve prescription contraceptives out of their formularies. And it says that insurers which cover outpatient health care services cannot limit or exclude coverage of the medical and counseling services necessary for effective contraceptive use.

This bill is good health policy. By helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reduce rates of maternal complications, and reduces the possibility of low-birthweight births.

Furthermore, the Equity in Prescription Insurance and Contraceptive Coverage Act makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every dollar invested in family planning, $4 to $14 is saved in health care and related costs. And all methods of reversible contraceptives are cost-effective when compared to the cost of unintended pregnancy. A sexually active women who uses no contraception costs the health care provider an average of $3,225 in a given year. The average cost of an uncomplicated vaginal delivery in 1993 was approximately $6,400. and for every 100 women who do not use contraceptives in a given year, 85 percent will become pregnant.

Why do insurance companies exclude prescription contraceptive coverage from their list of covered benefits—especially when they cover other prescription drugs? The tendency of insurance plans to cover sterilization and abortion reflects, in part, their longstanding tendency to cover surgery and treatment over prevention. But insurers do not feel compelled to cover prescription contraceptives because they know that most women who lack contraceptive coverage will simply pay for them out of pocket. And in order to prevent an unintended pregnancy, a women needs to be on some from of birth control for almost 30 years of her life.

The Equity in Prescription Insurance and Contraceptive Coverage Act tells insurance companies that we can no longer tolerate policies that disadvantage women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services. And America's unacceptably high rates of unintended pregnancies and abortions will be reduced in the process.

The philosophy behind the bill is that contraceptives should be treated no differently than any other prescription drug or device. It does not give contraceptives any type of special insurance coverage, but instead seeks to achieve equity of treatment and parity of coverage. For that reason, the bill specifies that if a plan imposes a deductible or cost-sharing requirement on prescription drugs or devices, it can impose the same deductible or cost-sharing requirement on prescription contraception. But it cannot charge a higher cost-sharing requirement or deductible on contraceptives. Outpatient contraceptive services must also be treated similarly to general outpatient health care services.

Time and time again Americans have expressed the desire for their leaders to come together to work on the problems that face us. This bill exemplifies that spirit of cooperation. It crosses some very wide gulfs and makes some very meaningful changes in policy that will benefit countless Americans.

By Mr. FEINGOLD:

S. 105. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which will serve as a first step towards eliminating the inequities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system.

The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a high price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

This legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it.

Under the current archaic law, the price for fluid milk increases depending on the distance from Eau Claire, Wisconsin, even though most milk marketing orders do not receive any milk from Wisconsin.

The bill I introduce today will prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Finally, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This one change is so crucial to Upper Midwest producers, because the current system has penalized them for many years. By providing disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk in some parts of the country, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995 some regions of the U.S., notably the Central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk prices have generated so much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market distorting effects of the fluid price differentials in federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $669 million over five years. Government outlays would fall, CBO concludes, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions which would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses show that farm revenues in a market undisturbed by Federal Orders would actually increase in the Upper Midwest and fall in most other milk-producing regions.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough fluid milk to meet their own needs.

Mr. President, that is no longer the case. The Upper Midwest is neither the

lowest cost production area nor a primary source of reserve supplies of milk. In many of the markets with higher fluid milk differentials, milk is produced efficiently, and in some cases, at lower cost than the upper Midwest. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, specifically California, which now leads the nation in milk production.

Fluid milk prices should have been lowered to reflect that trend. Instead, in 1985, the prices were increased for markets distant from Eau Claire. USDA has refused to use the administrative authority provided by Congress to make the appropriate adjustments to reflect economic realities. They continue to stand behind single-basing-point pricing.

The result has been a decline in the Upper Midwest dairy industry, not because they can't produce a product that can compete in the market place, but because the system discriminates against them. Today, Wisconsin loses dairy farmers at a rate of more than 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Other regions with higher fluid milk prices are growing rapidly.

In an unregulated market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

I urge my colleagues to do the right thing and bring reform to this outdated system and work to eliminate the inequities in the current milk marketing order pricing system. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 105

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

SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after ''the locations'' the following: ''within a marketing area subject to the order''; and

(B) by striking the last 2 sentences and inserting the following: ''Notwithstanding subsection (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence.''; and

(2) in paragraph (B)(c), by inserting after ''the locations'' the following: ''within a marketing area subject to the order''.

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

S. 106. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers' recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO JUSTICE REFORM LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce the Equal Access to Justice Reform Amendments of 2001. This legislation contains adjustments to the Equal Access to Justice Act (EAJA) that will streamline and improve the process of awarding attorney's fees to private parties who prevail in litigation against the Federal government. This is the now the fourth Congress in which I have introduced this legislation. I believe these reforms are an important step in reducing the burden of defending government litigation for many individuals and small businesses.

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

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

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

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

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

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

Not only is this additional step a financial burden on the private litigant, but a 1992 study also reveals that it is unnecessary and a waste of government resources. University of Virginia Professor Harold Krent on behalf of the Administrative Conference of the

United States found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of subtantial justification, it is Prof. Krent's opinion, based upon review of cases in 1989 and 1990, that while the substantial justification defense may save some money, it was not enough to justify the cost of the additional litigation. In short, eliminating this often burdensome second step is a cost effective step which will streamline recovery under EAJA and may very well save the government money in the long run.

The second part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to the attorneys' fees and costs incurred after the date of the government's offer. Again, this will encourage settlement, speed the claims process, and thereby reduce the time and expense of the litigation.

The final improvement to EAJA included in this legislation is the removal of the carve out of cases where the prevailing party is eligible to get attorneys fees under section 7430 of the Internal Revenue Code. Under current law, EAJA is inapplicable in cases where a taxpayer prevails against the government. I was an original cosponsor of a bill that suggested a similar reform introduced by Senator LEAHY of Vermont in the 105th Congress. This provision helps to level the playing field between the IRS and everyday citizens. There is no reason that taxpayers should be treated differently than any other party that prevails in a case against the government. They deserve to have their fees paid if they win.

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

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

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

S. 106

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

SECTION 1. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This Act may be cited as the ''Equal Access to Justice Reform Amendments of 2001''.

(b) AWARD OF COSTS AND FEES.—

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

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

(c) PAYMENT FROM AGENCY APPROPRIATIONS.—

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

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

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

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

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

(e) OFFERS OF SETTLEMENT.—

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

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

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

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

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

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

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

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

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

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

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

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

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

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

(g) REPORTS TO CONGRESS.—

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

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

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

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

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

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

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

in a United States court on or after such date.

Mr. HUTCHINSON. Mr. President, I rise today, with my colleague Senator FEINGOLD, to introduce the Equal Access to Justice (EAJA) Reform Amendments of 2001. I do so because it is my sincere hope that the 107th Congress will work in a bi-partisan manner to provide small business owners and individuals who prevail in court against the federal government with automatic reimbursement for their legal expenses—thereby fulfilling the true intent of EAJA when passed in 1980.

EAJA's initial premise was to reduce the vast disparity in resources and expertise which exists between small business owners or individuals and federal agencies and to encourage the government to ensure that the claims it pursues are worthy of its efforts. Twenty years ago, former Senator Gaylord Nelson, the author of the original, bipartisan EAJA bill, clearly explained EAJA's intent when he stated, ''All I can say is the taxpayer is injured, and if the taxpayer was correct, and that is the finding, then we ought to make the taxpayer whole.'' I commend former Senator Nelson. His steadfast commitment to our nation's businesses as Chairman of the Senate Small Business Committee is worthy of admiration. As a result of a political compromise, however, the final version of EAJA does not provide for an automatic award of attorneys' fees. Rather, it provides for an award of attorneys' fees only when an agency or a court determines that the government's position was not ''substantially justified'' or that ''special circumstances'' exist which would make an award unjust.

Agencies and courts have strayed far from the original intent of EAJA by repeatedly using these provisions to avoid awarding attorneys' fees to small businesses and individuals who have successfully defended themselves. The bill that Senator FEINGOLD and I are introducing today, the Equal Access to Justice Reform Amendments of 2001, would amend EAJA to provide that a small business owner or individual prevailing against the government will be automatically entitled to recover their attorneys' fees and expenses incurred in their defense.

Unfortunately, EAJA is not making the taxpayers of this nation whole after they defend themselves against government action. Thus, I ask that my colleagues join Senator FEINGOLD and myself in our effort to make these American taxpayers whole by cosponsoring and supporting the Equal Access to Justice Reform Amendments of 2001.

By Mr. FEINGOLD:

S. 107. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

DEMOCRACY FOR DAIRY PRODUCERS ACT OF 2001

Mr. FEINGOLD. Mr. President, I rise to introduce a measure that will begin to restore to many dairy farmers throughout the nation, part of the market power they have lost in recent years.

Mr. President, when dairy farmers across the country voted on a referendum two years ago—perhaps the most significant change in dairy policy in sixty years—they didn't actually get to vote. Instead, their dairy marketing cooperatives will cast their votes for them.

This procedure is called bloc voting and it is used all the time. Basically, a Cooperative's Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. In the interest of time, but not always in the interest of their producer owner-members.

Mr. President, I do think that bloc voting can be a useful tool in some circumstances, but I have serious concerns about its use in every circumstance. Farmers in Wisconsin and in other states tell me that they do not agree with their Cooperative's view on every vote. Yet, they have no way to preserve their right to make their single vote count.

After speaking to farmers and officials at USDA, I have learned that if a Cooperative bloc votes, individual members simply have no opportunity to voice opinions separately. That seems unfair when you consider what a monumental issue is at stake. Coops and their members do not always have identical interests. We shouldn't ask farmers to ignore that fact.

Mr. President, the Democracy for Dairy Producers Act of 2001 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot if one or two or ten or all of the members chose to vote on their own.

This will in no way slow down the process at USDA; implementation of any rule or regulation would be able to proceed on schedule. Also, I do not expect that this would change the final outcome of any given vote. Coops could still cast votes for their members who do not exercise their right to vote individually. And to the extent that coops represent farmers interest, farmers are likely to vote along with the coops, but whether they join the coops or not, farmers deserve the right to vote according to their own views.

I urge my colleagues to return just a little bit of power to America's farmers, and a little bit of pure democracy to the vote on issues that have such an impact on their future.

I urge my colleagues to support the Democracy for Dairy Producers Act, a dairy bill without regional bias.

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. 107

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

SECTION 1. SHORT TITLE.

The Act may be cited as the ''Democracy for Dairy Producers Act of 2001''.

SEC. 2. MODIFIED BLOC VOTING.

(a) IN GENERAL.—Notwithstanding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in the case of the referendum conducted as part of the consolidation of Federal milk marketing orders and related reforms under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), if a cooperative association of milk producers elects to hold a vote on behalf of its members as authorized by that paragraph, the cooperative association shall provide to each producer, on behalf of which the cooperative association is expressing approval or disapproval, written notice containing—

(1) a description of the questions presented in the referendum;

(2) a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership; and

(3) information regarding the procedures by which a producer may cast an individual ballot.

(b) TABULATION OF BALLOTS.—At the time at which ballots from a vote under subsection (a) are tabulated by the Secretary of Agriculture, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of, stockholders in, or under contract with, the cooperative association.

By Mr. FEINGOLD:

S. 108. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

LEGISLATION TO REDUCE THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The most recent Congressional Budget Office (CBO) estimates of this measure is that it would save $382 million over the next five years, and $872 million over the next 10 years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his book Thickening Government: Federal Government and the Diffusion of Accountability, author Paul Light reports a startling 430 percent increase in the

number of political appointees and senior executives in Federal government between 1960 and 1992.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership. Indeed, in their report, the Volcker Commission argued that the growing number of presidential appointees may ''actually undermine effective presidential control of the executive branch.'' The report went on to note that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The Commission argued that this lack of control and political focus ''may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable.''

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

In commenting on this problem, author Light noted, ''As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.'' Light added that ''Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . .''

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in government service or even pursuing a career in government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type - a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the excessive number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that ''on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term.'' By contrast, the report noted that in the presidential transition of 1960, ''KENNEDY appointees were confirmed, on average, two and a half months after the inauguration.''

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can ''wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector.''

Mr. President, as we reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

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

S. 108

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

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—In this section, the term ''political appointee'' means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 2001.

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

S. 109. A bill to establish the Dairy Farmer Viability Commission, to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY FARMER VIABILITY ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the Dairy Farmers Viability Act, legislation to establish a Commission to provide Congress with legislative and administrative recommendations to address dairy farming prices, stability, and marketplace competition and concentration.

As Congress moves to revise the 1996 farm bill, it is of paramount importance that we fashion dairy policies to meet the needs of all dairy farmers. I have taken the floor a number of times to talk about the challenges facing Wisconsin's dairy farmers, and many of those challenges are a result of inequities in the current pricing structure of milk. While I may disagree on many levels with my friend from Vermont, Senator JEFFORDS, there are a number of issues that face all dairy farmers, whether they are in Vermont, Idaho or Wisconsin.

This commission will help Congress address many of these common concerns, such as reducing the concentration in the marketplace, increasing competition in rural America, and improving farm-gate prices. I hope my colleagues will work with us to move this commission forward quickly and help to address the concerns of dairy farmers nationwide.

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

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

S. 109

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 ''Dairy Farmer Viability Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the farm-retail price spread (the difference between farm and retail values) for dairy products has doubled since the early 1980's;

(2) the price of raw milk sent to the market by dairy producers has fallen to levels received in 1978; and

(3) the number of family-sized dairy operations has decreased by almost 75 percent in the last 2 decades, with some States losing nearly 10 percent of their dairy farmers in recent months.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Dairy Farmer Viability Commission'' (referred to in this Act as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed by the Secretary.

(2) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—A member of the Commission appointed under paragraph (1) shall not be an employee or former employee of the Federal Government.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made as soon as practicable after the date of enactment of this Act.

(c) TERM; VACANCIES.—

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

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

SEC. 4. DUTIES.

(a) STUDY.—The Commission shall conduct a study on matters relating to improving the viability of dairy farming.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations to improve the viability of dairy farming after considering, with respect to dairy industry—

(1) farm prices;

(2) competition;

(3) leverage;

(4) stability; and

(5) concentration in the marketplace.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and Congress a report that contains—

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

(2) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 7. FUNDING.

The Secretary of Agriculture shall provide to the Commission for each fiscal year such sums as are necessary to carry out this Act, to be derived by transfer of a proportionate amount of funds for administrative expenses from each other account for which funds are made available to the Department of Agriculture for administrative expenses for the fiscal year.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under section 4(c).

By Mr. FEINGOLD:

S. 110. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs.

ELIMINATING THE AUTOMATIC PAY RAISE FOR CONGRESS

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce legislation that would put an end to automatic cost-of-living adjustments for Congressional pay.

As my Colleagues are aware, it is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the RECORD.

Last year, the Senate initially voted down the conference report on the Legislative Branch Appropriations bill. As I noted during the debate on that bill, by considering the Treasury-Postal appropriations bill as part of that conference report, shielded as it was from amendment, the Senate blocked any opportunity to force an open debate of a $3,800 pay raise for every Member of the Senate and the House of Representatives. This process of pay raises without accountability must end.

The stealth pay raise technique began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation. Many times, Congress has voted to deny itself the raise, and Congress traditionally does that on the Treasury-Postal Appropriations bill.

And by bringing the Treasury-Postal Appropriations bill to the Senate floor for the first time last year in a conference report, without Senate floor consideration, the majority leadership prevented anyone from offering an amendment on that bill to block the pay raise. The majority leadership tried to make it impossible even to put Senators on record in an up-or-down vote directly for or against the pay raise, nearly perfecting the technique of the stealth pay raise.

The question of how and whether Members of Congress can raise their own pay was one that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. Almost exactly 211 years ago, on September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the states.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin state Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the states.

The 27th Amendment to the Constitution now states: ''No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I try to honor that limitation in my own practices. In my own case, throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The stealth pay raises like the one that Congress allowed last year, at a minimum, certainly violate the spirit of that amendment.

Mr. President, this practice must end. To address it, I am re-introducing this bill to end the automatic cost-of-living adjustment for Congressional pay. Senators and Congressmen should have to vote up-or-down to raise Congressional pay. My bill would simply require us to vote in the open. We owe our constituents no less.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

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

S. 110

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

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2003.

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

S. 111. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PROMOTION FAIRNESS ACT

Mr. FEINGOLD. Mr. President, I rise today with my colleague Senator KOHL to introduce the ''Dairy Promotion Fairness Act.'' This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride. Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

This bill supports the dairy marketing board's efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly—by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike. We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

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

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

S. 111

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 ''Dairy Promotion Fairness Act''.

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DECLARATION OF POLICY.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended in the first sentence—

(1) by inserting after ''commercial use'' the following: ''and on imported dairy products''; and

(2) by striking ''products produced in the United States.'' and inserting ''products.''.

(b) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking ''and'' at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(m) the term 'imported dairy product' means any dairy product that is imported into the United States, including dairy products imported into the United States in the form of—

''(1) milk and cream and fresh and dried dairy products;

''(2) butter and butterfat mixtures;

''(3) cheese; and

''(4) casein and mixtures; and

''(n) the term 'importer' means a person that imports an imported dairy product into the United States.''.

(c) CONTINGENT REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by inserting ''NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—'' after ''(b)'';

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting appropriately;

(3) in paragraph (2) (as so designated), by striking ''Members'' and inserting ''Except as provided in paragraph (6), the members''; and

(4) by inserting after paragraph (5) (as so designated) the following:

''(6) IMPORTERS.—

''(A) IN GENERAL.—If representation of importers of imported dairy products is required on the Board by another law or a treaty to which the United States is a party, the Secretary shall appoint not more than 2 members who are representatives of importers.

''(B) ADDITIONAL MEMBERS; PROCEDURES.—The members appointed under this paragraph—

''(i) shall be in addition to the members appointed under paragraph (2); and

''(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.''.

(d) IMPORTER ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting ''ASSESSMENTS.—'' after ''(g)'';

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately; and

(3) by adding at the end the following:

''(6) IMPORTERS.—

''(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

''(B) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

''(C) VALUE OF PRODUCTS.—For the purpose of determining the assessment on imported dairy products under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.''.

(e) RECORDS.—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking ''person receiving'' and inserting ''importer of imported dairy products, each person receiving''.

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

S. 112. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN):

S. 113. A bill to terminate production under the D5 submarine-launched ballistic missile program and to prohibit the backfit of certain Trident I ballistic missile submarines to carry D5 submarine-launched ballistic missiles; to the Committee on Armed Services.

DEFENSE LEGISLATION

Mr. FEINGOLD. Mr. President, today I am introducing two bills that I hope will be a first step in helping to change fundamentally the way we think about our national defense.

As I have said time and again, I strongly support our Armed Forces and the excellent work they are doing to combat the new threats of the 21st century and beyond. I am concerned, however, that we are not giving our forces the tools they need to combat these emerging threats. Instead, a Cold War mentality continues to permeate the United States defense establishment and we still cling to the strategies and weapons that we used to fight—and win—the Cold War.

We have an historic opportunity, Mr. President. There is a new President, a new Congress, and a pending Quadrennial Defense Review—all at the dawn of a new millennium. We should take advantage of this opportunity by restructuring our national defense policy to combat the threats of the new century instead of continuing to guard against the long-defeated perils of the last one.

In the coming months, I will introduce and support a number of initiatives that I hope will help to turn the focus of our national defense policy away from the Cold War that has already been won and toward fielding a strong, agile force that can meet the emerging threats of the new century head on.

The two bills I am introducing today are a first step toward this goal. One of these bills would terminate the operation of the Navy's Extremely Low Frequency communications system (Project ELF). The other would end production of the Navy's Trident II submarine-launched ballistic missile and would prohibit certain back-fits of Trident I submarines.

Both of these systems were designed to protect the United States against an attack by the Soviet Union. Trident submarines, and the deadly submarine-launched ballistic missiles they carry, were designed specifically to attack targets inside the Soviet Union from waters off the continental United States. Project ELF was designed to send short one-way messages to ballistic and attack submarines that are submerged in deep waters.

The first bill I am introducing today would terminate operations under Project ELF, which is located in Clam Lake, Wisconsin, and Republic, Michigan. I would like to thank the senior Senator from Wisconsin [Mr. KOHL] and the Senator from Oregon [Mr. WYDEN] for cosponsoring this bill.

This bill would terminate operations at Project ELF, while maintaining the infrastructure in Wisconsin and Michigan in the event that a resumption in operations becomes necessary. If enacted, this bill would save taxpayers nearly $14 million per year.

Project ELF is ineffective and unnecessary in the post-Cold War era. Since ELF cannot transmit detailed messages, it serves as an expensive ''beeper'' system to tell submarines to come to the surface to receive messages from other sources, and the subs cannot send a return message to ELF in the event of an emergency. It takes ELF four minutes to send a three-letter message to a deeply submerged submarine.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Our submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency (VLF) radio waves or lengthier messages through satellite systems. It is hard to understand why the taxpayers continue to be asked to pay $14 million a year for what amounts to a beeper system that tells our submarines to come to the surface to receive orders from another, more sophisticated source.

Further, continued operation of this facility is opposed by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation during each Congress since taking office in 1993 to terminate it; and I have even recommended it for closure to the Defense Base Closure and Realignment Commission.

Project ELF has had a turbulent history. Since the idea for ELF was first proposed in 1958, the project has been changed or canceled several times. Residents of Wisconsin have opposed ELF since its inception, but for years we were told that the national security considerations of the Cold War outweighed our concerns about this installation in our state. Ironically, this system became fully operational in 1989—the same year the tide of democracy began to sweep across Eastern Europe and the Soviet Union. Now, twelve years later, the hammer and sickle has fallen and the Russian submarine fleet is in disarray. But Project ELF still remains as a constant, expensive reminder to the people of my state that the Department of Defense remains focused on the past.

There also continue to be a number of public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. District Court ordered that ELF be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

Numerous medical studies point to a possible link between exposure to extremely low frequency electromagnetic fields and a variety of human health effects and abnormalities in both animal and plant species.

In 1999, after six years of research, the National Institute of Environmental Health Sciences released a report that did not prove conclusively a link between electromagnetic fields and cancer, but the report did not disprove it, either. Serious questions remain, Mr. President, and many of my constituents are rightly concerned about this issue.

In addition, I have heard from a number of dairy farmers who are convinced that the stray voltage associated with ELF transmitters has demonstrably reduced milk production. As we continue our efforts to produce a sustainable balanced federal budget and reduce the national debt, and as the Department of Defense continues to struggle to address readiness and other concerns, it is clear that outdated programs such as Project ELF should be closed down.

The second bill I am introducing today would terminate production under the Navy's Trident II submarine-launched ballistic missile program. It would also prohibit the Navy from moving forward with the planned back-fits of two Trident I submarines to carry Trident II missiles, which are currently scheduled for 2005 and 2006.

I am pleased to be joined in this effort by the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Oregon [Mr. WYDEN].

Let me say at the outset that my bill will in no way prevent the Navy from maintaining the current arsenal of Trident II missiles. Nor will it affect those Trident II missiles that are currently in production.

Mr. President, the Navy currently has ten Trident II submarines, each of which carries 24 Trident II (D5) missiles. Each of these missiles contains eight independently targetable nuclear warheads, for a total of 192 warheads per submarine. Each warhead packs between 300 to 450 kilotons of explosive power.

By comparison, the first atomic bomb that the United States dropped on Hiroshima generated 15 kilotons of force. Let's do the math for just one fully-equipped Trident II submarine.

Each warhead can generate up to 450 kilotons of force.

Each missile has eight warheads, and each submarine has 24 missiles.

That equals 86.4 megatons of force per submarine. That means that each Trident II submarine carries the power to deliver devastation which is the equivalent of 5,760 Hiroshimas.

And that is just one fully equipped submarine. As I noted earlier, the Navy currently has ten such submarines.

Through fiscal year 2001, the Navy will have been authorized to purchase 384 Trident II missiles for these submarines. Even taking into account the 78 Trident II missiles that have been expended through testing through calendar year 2000 and the four more that are scheduled to be expended this year, the Navy will still have 302 missiles in stock once those authorized to be purchased during FY2001 are completed.

The Navy needs 240 missiles to fully equip ten Trident II submarines with 24 missiles each. That leaves 62 ''extra'' missiles in the Navy's inventory. And the Navy still plans to buy 41 more missiles over the next four years, for a total purchase of 425 missiles. My bill would terminate production of these missiles after the currently authorized 384.

In addition to the ten Trident II submarines, the Navy also has eight Trident I submarines. The Navy plans to remove four of these submarines (the Ohio, the Florida, the Michigan, and the Georgia) from strategic service in 2003 and 2004 in order to comply with the provisions of the START II treaty. Current plans call for the other four Trident I submarines to be back-fitted to carry Trident II missiles. One of these back-fits began in May 2000 (the Alaska); another is scheduled to begin in February 2001 (the Nevada). The Navy wants to back-fit the last two Trident I submarines (the Henry M. Jackson and the Alabama) in 2005 and 2006. My bill would prohibit those last two back-fits. It would not affect the back-fits of the Alaska and the Nevada.

Thus, once the back-fits of the Alaska and the Nevada are completed, the Navy will have a fleet of twelve submarines capable of carrying Trident II missiles. This is more than enough firepower to be an effective deterrent against the moth-balled Russian submarine fleet and against the ballistic missile aspirations of rogue states including China and North Korea.

I recognize that there is still a potential threat from rogue states and from independent operators who seek to acquire ballistic missiles and other weapons of mass destruction. I also recognize that our submarine fleet and our

arsenal of strategic nuclear weapons still have an important role to play in warding off these threats. Their role, however, has diminished dramatically from what it was at the height of the Cold War. Our missile procurement and equipment upgrade decisions should reflect that change and should reflect the realities of the post-Cold War world.

Our current ballistic missile capability is far superior to that of any other country on the globe. And the capability of the Russian military—the very force which these missiles were designed to counter—is seriously degraded.

I cannot understand the need for more Trident II missiles and more submarines to carry them at a time when the Governments of the United States and Russia are in negotiations to implement START II and are also discussing a framework for START III. These agreements call for reductions in our nuclear arsenal, not increases. To spend scarce resources on building more missiles now and on back-fitting two more submarines to carry them in the coming years is short-sighted and could seriously undermine our efforts to negotiate further arms reductions with Russia.

In conclusion, Mr. President, we should reexamine our national defense policy at the earliest possible date. The forthcoming Quadrennial Defense Review presents an excellent opportunity to do just that. We should not miss this opportunity to begin to transform our Armed Forces from the structure and strategies that won the Cold War to a fiscally responsible force that is adequately trained and equipped to combat the new challenges of the 21st century and beyond. The legislation I am introducing today is a step in that direction.

Mr. President, I ask unanimous consent that both of these bills be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 112

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

SECTION 1. TERMINATION OF OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) TERMINATION REQUIRED.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) MAINTENANCE OF INFRASTRUCTURE.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

S. 113

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

SECTION 1. TERMINATION OF D5 SUBMARINE-LAUNCHED BALLISTIC MISSILE PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate production of D5 submarine-launched ballistic missiles under the D5 submarine-launched ballistic missile program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available on or after the date of the enactment of this Act for obligation for the D5 submarine-launched ballistic missile program may be obligated for production under that program only for payment of the costs associated with the termination of production under this Act.

SEC. 2. PROHIBITION ON D5 TRIDENT II BACKFIT SCHEDULED TO COMMENCE IN 2005 AND 2006.

(a) PROHIBITION ON BACKFIT OF CERTAIN SUBMARINES.—The Secretary of Defense may not carry out the modifications of two Trident I submarines to enable such submarines to be deployed with Trident II D5 submarine-launched ballistic missiles that are currently scheduled to commence in 2005 and 2006, respectively.

(b) PROHIBITION ON USE OF FUNDS.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for purposes of carrying out the modifications of Trident I submarines described in subsection (a).

SEC. 3. CURRENT PROGRAM ACTIVITIES.

Nothing in sections 1 and 2 shall be construed to prohibit or otherwise affect the availability of funds for the following:

(1) Production of D5 submarine-launched ballistic missiles in production on the date of the enactment of this Act.

(2) Maintenance after the date of the enactment of this Act of the arsenal of D5 submarine-launched ballistic missiles in existence on such date, including the missiles described in paragraph (1).

By Mr. FEINGOLD:

S. 114. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, I am today re-introducing legislation terminating the Uniformed Services University of the Health Sciences (USUHS), a medical school run by the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office (CBO) project that terminating the school would save $273 million over the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military's scholarship program which provided over 80 percent of the military's new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO has noted, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The House of Representatives has voted to terminate this program on several occasions, and the Vice President's National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5%, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government cannot afford to continue every program that provides some useful function.

This is especially true in the area of defense spending. Many in this body argue that the Defense budget is too tight, that a significant increase in spending is needed to address concerns about shortfalls in recruitment and retention, maintenance backlogs, and other indicators of a lower level of readiness.

Mr. President, the debate over our level of readiness is certainly important, and it may well be that more Defense funding should be channeled to

these specific areas of concern. But before advocates of an increased Defense budget ask taxpayers to foot the bill for hundreds of billions more in spending, they owe it to those taxpayers to trim Defense programs that are not justified.

In the face of our staggering national debt, we must prioritize and eliminate programs that can no longer be sustained with limited federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because it does not appear to pass the higher threshold tests which must be applied to all federal spending programs.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD immediately following my remarks.

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

S. 114

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 ''Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 2001''.

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS.—

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATES.—

(1) TERMINATION.—The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the graduation from the university of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

(2) AMENDMENTS.—The amendments made by subsection (a)(2) shall take effect on the date of the enactment of this Act, except that the provisions of chapter 104 of title 10, United States Code, as in effect on the day before such date, shall continue to apply with respect to the Uniformed Services University of the Health Sciences until the termination of the university under this section.

By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. 115. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

LEGISLATION TO ELIMINATE PERCENTAGE DEPLETION ALLOWANCES ON PUBLIC LANDS

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation to eliminate from the federal tax code percentage depletion allowances for hardrock minerals mined on federal public lands. I am joined in introducing this legislation by my colleagues from Vermont, the senior Senator (Mr. LEAHY) and the junior Senator (Mr. JEFFORDS).

President Clinton proposes the elimination of the percentage depletion allowance on public lands in his FY 2001 budget. The President's FY 2001 budget estimated that, under this legislation, income to the federal treasury from the elimination of percentage depletion allowances for hardrock mining on public lands would total $410 million over five years, and $823 million over ten years. These savings are calculated as the excess amount of federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. Percentage depletion allowances are contained in the tax code for extracted fuel, minerals, metal and other mined commodities. These allowances have a combined value, according to estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, these percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That's right, Mr. President, initiated in 1909. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration and output. However, percentage depletion also makes it possible to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion for the recovery of the actual capital investment—the costs of discovery, purchasing, and developing a mineral reserve—over the period during which the reserve produces income. Using cost depletion, a company would deduct a portion of its original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of ''gross income''—namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, Mr. President, exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 percent to 22 percent.

In addition to repealing the percentage depletion allowances for minerals mined on public lands, Mr. President, my bill also creates a new fund, called the Abandoned Mine Reclamation Fund. One fourth of the revenue raised by the bill, or approximately $120 million dollars, will be deposited into an interest bearing fund in the Treasury to be used to clean up abandoned hardrock mines in states that are subject to the 1872 Mining Law. The Mineral Policy Center estimates that there are 557,650 hardrock abandoned mine sites nationwide and the cost of cleaning them up will range from $32.7 billion to $71.5 billion.

There are currently no comprehensive federal or state programs to address the need to clean up old mine sites. Reclaiming these sites requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

Mr. President, in today's budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are adding to the nation's environmental and financial burdens. We face serious budget choices this fiscal year, yet these subsidies remain a persistent tax expenditure that raise the deficit for all citizens or shift a greater tax burden to other taxpayers to compensate for the special tax breaks provided to the mining industry.

Mr. President, the measure I am introducing is fairly straightforward. It eliminates the percentage depletion allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with those given to other businesses.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business. We can no longer afford its costs in dollars or its cost to the health of our citizens.

This legislation is one step toward the goal of ending these corporate welfare subsidies.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 115

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 ''Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2001''.

SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting ''(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)'' after ''In the case of the mines''.

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

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

SEC. 3. ABANDONED MINE RECLAMATION FUND.

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

''SEC. 9511. ABANDONED MINE RECLAMATION FUND.

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

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to 25 percent of the additional revenues received in the Treasury by reason of the amendments made by section 2 of the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2001.

''(c) EXPENDITURES FROM TRUST FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, to the Secretary of the Interior for—

''(A) the reclamation and restoration of lands and water resources described in paragraph (2) adversely affected by mineral (other than coal and fluid minerals) and mineral material mining, including—

''(i) reclamation and restoration of abandoned surface mine areas and abandoned milling and processing areas,

''(ii) sealing, filling, and grading abandoned deep mine entries,

''(iii) planting on lands adversely affected by mining to prevent erosion and sedimentation,

''(iv) prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage, and

''(v) control of surface subsidence due to abandoned deep mines, and

''(B) the expenses necessary to accomplish the purposes of this section.

''(2) LANDS AND WATER RESOURCES.—

''(A) IN GENERAL.—The lands and water resources described in this paragraph are lands within States that have land and water resources subject to the general mining laws or lands patented under the general mining laws—

''(i) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status before the date of the enactment of this section,

''(ii) for which the Secretary of the Interior makes a determination that there is no continuing reclamation responsibility under State or Federal law, and

''(iii) for which it can be established to the satisfaction of the Secretary of the Interior that such lands or resources do not contain minerals which could economically be extracted through remining of such lands or resources.

''(B) CERTAIN SITES AND AREAS EXCLUDED.—The lands and water resources described in this paragraph shall not include sites and areas which are designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.) or which are listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

''(3) GENERAL MINING LAWS.—For purposes of paragraph (2), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 9511. Abandoned Mine Reclamation Trust Fund.''.

By Mr. FEINGOLD:

S. 116. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

IRRIGATION SUBSIDY REDUCTION ACT OF 2001

Mr. FEINGOLD. Mr. President, today I am reintroducing a measure that I sponsored in the 106th Congress to reduce the amount of federal irrigation subsidies received by large agribusiness interests. I believe that reforming federal water pricing policy by reducing subsidies is important as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the federal government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the federal government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the federal government, some of the beneficiaries of federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345

acre cotton farm (roughly 20 square miles), operating under a single partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations, and 11 trusts which were all operated as one large unit. A seventh very large trust was the sole topic of a 1990 GAO report. The Westhaven trust is a 23,238 acre farming operation in California's Central Valley. It was formed for the benefit of 326 salaried employees of the J.G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary's interest exceeds the law's ownership limits. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J.G. Boswell Company re-organized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J.G. Boswell Company operated the acreage as one large farm and paid full cost for the federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holding attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for federal water then they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven Trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The Department of the Interior has acknowledged that these problems do exist. Interior published a final rulemaking in 1998 to require farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities to submit RRA forms to the district(s) where such land is located. Water districts are now required to provide specific information about farm operators to Interior annually. This information is an important step toward enforcing the legislation that I am reintroducing today.

This legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means-test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million, a ratio of $500,000 (the means-test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means-testing proposal was featured, for the fifth year in a row, in the 2000 Green Scissors report. This report is compiled annually by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our effort to achieve a truly balanced budget and eliminate our national debt. The Green Scissors recommendation on means-testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the federal government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over five years.

When countless federal program are subjected to various types of means-test to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of federal water projects, such as the power recipients, should also be concerned when they learn that they will be expected to pick up the tab for a portion of the funds that irrigators were supposed to pay back. The federal water program was simply never intended to benefit these large interests, and I hope that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the federal government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should pay their fair share. We should act to close these loopholes and increase the return to the treasury from irrigators as soon as possible. I ask unanimous consent that the text of the measure be printed in the RECORD.

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

S. 116

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 ''Irrigation Subsidy Reduction Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking ''owned or operated under a lease which'' and inserting ''that is owned, leased, or operated by an individual or legal entity and that'';

(3) by inserting after paragraph (6) the following:

''(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

''(8) OPERATOR.—

''(A) IN GENERAL.—The term 'operator'—

''(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcel) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

''(ii) if the individual or legal entity—

''(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

''(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

''(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water.''; and

(4) by adding at the end the following:

''(14) SINGLE FARM OPERATION.—

''(A) IN GENERAL.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

''(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION.—

''(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

''(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.''.

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

''SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

''(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

''(b) SHARED DECISIONMAKING AND SUPERVISION.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

''(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

''(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1).

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

''(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

''(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

''(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

''(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

''(3) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2000 shall be equal to the product of—

''(i) $500,000, multiplied by

''(ii) the inflation adjustment factor for the taxable year.

''(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 2000. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

''(C) GDP IMPLICIT PRICE DEFLATOR.—For purposes of subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

''(D) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.''.

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

''SEC. 206. CERTIFICATION OF COMPLIANCE.

''(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

''(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

''(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

''(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.''.

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking ''(c) The Secretary'' and inserting the following:

''(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

''(1) REGULATIONS; DATA COLLECTION.—The Secretary''; and

(B) by adding at the end the following:

''(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.''.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: ''The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).''.

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting ''operator or'' before ''contracting entity'' each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

''SEC. 229. MEMORANDUM OF UNDERSTANDING.

''The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.''.

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

S. 117. A bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

QUALITY CHEESE ACT

Mr. FEINGOLD. Mr. President, I am pleased to introduce the Quality Cheese Act of 2000. This legislation will protect the consumer, save taxpayer dollars and provide support to America's dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese, but the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) may change current law, and consumers won't know whether cheese is really all natural or not.

If the federal government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, cheese bearing the labels ''domestic'' and ''natural'' will no longer be truly accurate.

If USDA and FDA allow a change in federal rules, imitation milk proteins known as milk protein concentrate or casein, could be used to make cheese in

place of the wholesome natural milk produced by cows in Wisconsin or other part of the U.S.

Mr. President, I am deeply concerned by recent efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein into natural cheese products flies in the face of logic and could create a loophole for unlimited amounts of substandard imported milk proteins to enter U.S. cheese vats.

My legislation will close this loophole and ensure that consumers can be confident that they are buying natural cheese when they see the natural label.

Our dairy farmers have invested heavily in processes that make the best quality cheese ingredients, and I am concerned about recent efforts to change the law that would penalize them for those efforts by allowing lower quality ingredients to flood the U.S. market.

Over the past decade, cheese consumption has risen at a strong pace due to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

Back in the 1980's, when I served in the Wisconsin State Senate, cheese consumption topped 20 pounds per person. During the 1990s consumption increased by over 25 percent, and passed 25 pounds per person. Last year we saw an even more dramatic increase when per capita cheese consumption rose an amazing 1.5 pounds to reach 29.8 pounds.

This one-year increase amounts to the largest expansion since 1982! I am proud to say that my home state of Wisconsin, America's dairyland, was one of the main engines behind this growth. After all, when consumers see the label ''Wisconsin Cheese,'' they know that it is synonymous with quality.

Over the past two decades consumers have increased their cheese consumption due to their understanding, and taste for the quality natural cheese produced by America's dairy industry.

Recent proposals to change to our natural cheese standard could decrease consumption of natural cheese. These declines could result from concerns about the origin of casein and other forms of dry UF milk.

The vast majority of dry ultra filtered milk originates from countries with State Trading Enterprises. Many of these countries subsidize their dairy exports through these trading mechanisms, and have quality standards that are well below those of the United States.

While it is difficult to obtain specific numbers about the amount of dry UF milk produced in foreign countries, I have heard disturbing stories about the conditions under which the casein and milk proteins are sometimes produced.

For the most part, dry UF milk is not produced in the US. In fact, it is, for the most part, produced in countries where sanitary standards are well below those of the United States.

These products are sold on the international market, and under the proposed rule they could be labeled as natural cheese. This cheap, low quality dry UF milk tends to leave cheese greasy and increases separation problems.

The addition of this kind of milk will certainly leave the wholesome reputation of ''natural cheese'' significantly tarnished in the eyes of the consumer.

This change would seriously compromise decades of work by America's dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America's farmers!

Mr. President, consumers have a right to know if the cheese they buy is unnatural. And by allowing unnatural dry UF milk into cheese, we are denying consumers the entire picture.

This legislation will paint the entire picture for the consumer, and allow them enough information to select cheese made from truly natural ingredients.

Allowing dry Ultra-Filtered milk into cheeses will have a significant adverse impact on dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer.

If we allow dry UF milk to be used in cheese we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily subsidized products will displace natural domestic dairy ingredients.

These unnatural domestic dairy products will enter our domestic cheese market and may further depress dairy prices paid to American dairy producers.

Low dairy prices result in increased costs to the dairy price support program. So, at the same time that U.S. dairy farmers are receiving lower prices, the U.S. taxpayer will be paying more for the dairy price support program.

Mr. President, this change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

The obvious answer is nobody.

America's farmers have invested a tremendous amount of time and effort to create the best cheese industry in the world. They should not be penalized for their efforts.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk from being included in America's natural cheese standard.

Congress must shut the door on any backdoor efforts to stack the deck against America's dairy farmers. And we must pass my legislation that prevents a loophole that would allow changes that hurt the consumer, taxpayer and dairy farmer.

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. 117

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 ''Quality Cheese Act of 2001''.

SEC. 2. NATURAL CHEESE STANDARD.

(a) FINDINGS.—Congress finds that—

(1)(A) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would result in increased costs to the dairy price support program; and

(B) that change would be unfair to taxpayers, who would be forced to pay more program costs;

(2) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would result in lower revenues for dairy farmers;

(3) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would cause dairy products containing dry ultra-filtered milk or casein to become vulnerable to contamination and would compromise the sanitation, hydrosanitary, and phytosanitary standards of the United States dairy industry; and

(4) changing the labeling standard for domestic natural cheese would be misleading to the consumer.

(b) PROHIBITION.—Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended—

(1) by striking ''Whenever'' and inserting ''(a) Whenever''; and

(2) by adding at the end the following:

''(b) The Commissioner may not use any Federal funds to amend section 133.3 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling), to include dry ultra-filtered milk or casein in the definition of the term 'milk' or 'nonfat milk', as specified in the standards of identity for cheese and cheese products published at part 133 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling).''.

By Mrs. FEINSTEIN:

S. 118. A bill to strengthen the penalties for violations of plant quarantine laws; to the Committee on Agriculture, Nutrition, and Forestry.

FRUIT, VEGETABLE, AND PLANT SMUGGLING PREVENTION ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to strengthen the penalties for organized smuggling of fruits, plants, and vegetables into the United States. A felony statute for agriculture product smuggling is needed to reflect the serious impact these crimes have on our farmers and the entire agriculture industry.

Recent breaches of the agriculture safeguarding system have proven the need for strong criminal penalties for organized smuggling: multiple exotic fruit fly infestations have decimated California and Florida; the Asian longhorn beetle has been found in New

York and Illinois; the Asian gypsy moth has been introduced in North Carolina and Oregon; and plum pox from Western Europe has devastated peach production in Pennsylvania.

This widespread invasion of foreign species requires a strong federal response. The consequences of failing to adequately combat agriculture smuggling are clear.

Until recently, a 72 square mile area of San Diego was under quarantine due to an infestation of Mexican Fruit Flies. The quarantine effected 1,470 growers of at least 20 specialty crops. The Department of Agriculture has encouraged California producers to grow specialty fruits and vegetables in an effort to reduce the risk of exotic pest introduction from smuggled fruit. Yet, no pre or post harvest treatment for many of these crops has been provided by the USDA. As a result of 2 fruit flies, roughly 150 growers lost virtually their entire harvest—estimated more than $3 million.

PROBLEMS WITH EXISTING LAWS

The current system that charges low fines and encourages few prosecutions is not a meaningful deterrent for violators. The USDA can assess a maximum fine of $1,000 for passenger and cargo violations. For an illegal shipper, this is simply a minor cost of doing business and not an effective deterrent.

In addition, the lack of serious penalties for such crimes has resulted in a reduced number of criminal investigations, violators prosecuted, and sentences given to those convicted.

The Office of the Inspector General (OIG) of the USDA, the law enforcement arm of the Department, has placed a low priority on agriculture smuggling violations because they are only misdemeanors and the OIG is forced to devote the bulk of its resources to felony violations. Of the 4,400 investigations completed since October 1, 1994, fewer than 50 involved smuggling.

The sentences given to the relatively few convicted smugglers is also effected by the attitude that this is not a serious crime.

In the State of Washington, two people were caught smuggling agricultural products into the country on numerous occasions. Their third arrest came after 400 pounds of illegal and infested fruit was found in the walls of their station wagon. Despite their repeated crimes, the smugglers received only two days of jail time and a fine of $1,000.

PENALTIES FOR VIOLATIONS

This legislation would make it a felony to knowingly and willfully smuggle large amounts of agriculture products into the country. Persons caught smuggling foreign plant pests, more than 50 pounds of plants, more than 5 pounds of plant products, more than 50 pounds of noxious weeds, or possession with intent to distribute these products, would be punished with imprisonment for up to 5 years, a fine of as much as $25,000, or both. Repeat violators would face 10 years of jail time and/or a fine of $50,000.

The legislation would also make smuggling lesser amounts of products a misdemeanor crime punishable by one year in jail and/or a $1,000 fine. Subsequent violations would result in three years of jail time and/or a fine of $10,000.

These penalties will provide law enforcement with the needed tools to investigate, arrest, and prosecute individuals and organizations engaged in the organized smuggling of agriculture products.

PROPERTY FORFEITURES

Another inadequacy in current law is the lack of a specific forfeiture provision for agriculture product smuggling. I have been told of cases at the San Diego border in which a person has been caught smuggling fruits or vegetables across the border. After receiving a slap on the wrist from the judicial system, his truck was returned to him, and he was allowed to return to his criminal occupation with the tools of his trade intact. It is astonishing to me that, not only is the government incapable of punishing illegal traffickers of agriculture products, but we are unable to take even modest steps to prevent recurrences of the same crime.

According to this legislation, anyone convicted of violating the law would forfeit any property used to commit or facilitate the violation. They would also forfeit any money acquired through a violation of the law. The proceeds of the sale of forfeited property would be used to reimburse the costs of the prosecution. Any additional funds would go towards the USDA's interdiction efforts.

I believe that Congress must send a message to our farmers and growers that the federal government is committed to protecting the agriculture sector from invasive species. We can do this by passing this legislation as quickly as possible.

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

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

S. 118

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 ''Fruit, Vegetable, and Plant Smuggling Prevention Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) PLANT QUARANTINE LAW.—The term ''plant quarantine law'' means any of the following provisions of law:

(A) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(B) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(C) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(D) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(E) The Joint Resolution of April 6, 1937 (56 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(F) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(G) The Act of August 20, 1912 (commonly known as the ''Plant Quarantine Act'') (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(H) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(I) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(J) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section and section 15 of that Act (7 U.S.C. 2801 note, 2814).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. PENALTIES FOR VIOLATION.

(a) CRIMINAL PENALTIES.—

(1) IN GENERAL.—A person that knowingly violates a plant quarantine law shall be subject to criminal penalties in accordance with this subsection.

(2) FELONIES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a person shall be imprisoned not more than 5 years, fined not more than $25,000, or both, in the case of a violation of a plant quarantine law involving—

(i) plant pests;

(ii) more than 50 pounds of plants;

(iii) more than 5 pounds of plant products;

(iv) more than 50 pounds of noxious weeds;

(v) possession with intent to distribute or sell items described in clause (i), (ii), (iii), or (iv), knowing the items have been involved in a violation of a plant quarantine law; or

(vi) forging, counterfeiting, or without authority from the Secretary, using, altering, defacing, or destroying a certificate, permit, or other document provided under a plant quarantine law.

(B) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 10 years or fined not more than $50,000, or both.

(C) INTENT TO HARM AGRICULTURE OF UNITED STATES.—In the case of a knowing movement in violation of a plant quarantine law by a person of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance into, out of, or within the United States, with the intent to harm the agriculture of the United States by introduction into the United States or dissemination of a plant pest or noxious weed within the United States, the person shall be imprisoned not less than 10 nor more than 20 years, fined not more than $500,000, or both.

(3) MISDEMEANORS.—

(A) IN GENERAL.—Subject to subparagraph (B), a person shall be imprisoned not more than 1 year, fined not more than $1,000, or both, in the case of a violation of a plant quarantine law involving—

(i) 50 pounds or less of plants;

(ii) 5 pounds or less of plant products; or

(iii) 50 pounds or less of noxious weeds.

(B) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 3 years, fined not more than $10,000, or both.

(b) CRIMINAL FORFEITURE.—

(1) IN GENERAL.—In imposing a sentence on a person convicted of a violation of a plant quarantine law, in addition to any other penalty imposed under this section and irrespective of any provision of State law, a court shall order that the person forfeit to the United States—

(A) any of the property of the person used to commit or to facilitate the commission of

the violation (other than a misdemeanor); and

(B) any property, real or personal, constituting, derived from, or traceable to any proceeds that the person obtained directly or indirectly as a result of the violation.

(2) PROCEDURES.—All property subject to forfeiture under this subsection, any seizure and disposition of the property, and any proceeding relating to the forfeiture shall be subject to the procedures of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (d) and (q).

(3) PROCEEDS.—The proceeds from the sale of any forfeited property, and any funds forfeited, under this subsection shall be used—

(A) first, to reimburse the Department of Justice, the United States Postal Service, and the Department of the Treasury for any costs incurred by the Departments and the Service to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the Secretary to carry out the functions of the Secretary under a plant quarantine law.

(c) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates a plant quarantine law, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under a plant quarantine law may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) $50,000 in the case of an individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of the plant quarantine law by an individual moving regulated articles not for monetary gain), or $250,000 in the case of any other person for each violation, except the amount of penalties assessed under this subparagraph in a single proceeding shall not exceed $500,000; or

(B) twice the gross gain or gross loss for a violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in the plant quarantine law that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary—

(A) shall take into account the nature, circumstance, extent, and gravity of the violation; and

(B) may take into account the ability to pay, the effect on ability to continue to do business, any history of prior violations, the degree of culpability of the violator, and any other factors the Secretary considers appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) IN GENERAL.—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) COLLECTION ACTION.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of the courts of the United States.

(5) GUIDELINES FOR CIVIL PENALTIES.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of a plant quarantine law.

(d) CIVIL FORFEITURE.—

(1) IN GENERAL.—There shall be subject to forfeiture to the United States any property, real or personal—

(A) used to commit or to facilitate the commission of a violation (other than a misdemeanor) described in subsection (a); or

(B) constituting, derived from, or traceable to proceeds of a violation described in subsection (a).

(2) PROCEDURES.—

(A) IN GENERAL.—Subject to subparagraph (B), the procedures of chapter 46 of title 18, United States Code, relating to civil forfeitures shall apply to a seizure or forfeiture under this subsection, to the extent that the procedures are applicable and consistent with this subsection.

(B) PERFORMANCE OF DUTIES.—Duties imposed on the Secretary of the Treasury under chapter 46 of title 18, United States Code, shall be performed with respect to seizures and forfeitures under this subsection by officers, employees, agents, and other persons designated by the Secretary of Agriculture.

(e) LIABILITY FOR ACTS OF AN AGENT.—For the purposes of a plant quarantine law, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment or office of the officer, agent, or person, shall be considered to be the act, omission, or failure of the other person.

By Ms. SNOWE (for herself and Mr. CHAFEE):

S. 119. A bill to provide States with funds to support State, regional, and local school construction; to the Committee on Health, Education, Labor, and Pensions.

BUILDING, RENOVATING, AND CONSTRUCTING KIDS' SCHOOLS ACT

Ms. SNOWE. Mr. President, I rise today with my friend and colleague, Senator CHAFEE, to introduce the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act—legislation that would address our nation's burgeoning need for K-12 school construction, renovation, and repair.

The legislation—which is endorsed by the National Education Association and National PTA, and the National Association of State Boards of Education—would accomplish this in a fiscally-responsible manner while seeking to find the middle ground between those who support a very direct, active federal role in school construction, and those who are concerned about an expanded federal role in what has been—and remains—a state and local responsibility.

Mr. President, the condition of many of our nation's existing public schools is abysmal even as the need for additional schools and classroom space grows. Specifically according to reports issued by the General Accounting Office in 1995 and 1996, fully one-third of all public schools need extensive repair or replacement.

As further evidence of this problem, an issue brief prepared by the National Center for Education Statistics (NCES) in 1999 stated that the average public school in America is 42 years old, with school buildings beginning rapid deterioration after 40 years. In addition, the NCES brief found that 29 percent of all public schools are in the ''oldest condition,'' which means that they were build prior to 1970 and have either never been renovated or were renovated prior to 1980.

Not only are our nation's schools in need of repair and renovation, but there is a growing demand for additional schools and classrooms due to an ongoing surge in student enrollment. Specifically, according to the NCES, at least 2,400 new public schools will need to be built by the year 2003 to accommodate our nation's burgeoning school rolls, which will grow from a record 52.7 million children today to 54.3 million by 2008.

Needless to say, the cost of addressing our nation's need for school renovations and construction is enormous. In fact, according to the General Accounting Office (GAO), it will cost $112 billion just to bring our nation's schools into good overall condition, and a recent report by the NEA identified $322 billion in unmet school modernization needs. Nowhere is this cost better understood than in my home state of Maine, where a 1996 study by the Maine Department of Education and the State Board of Education determined that the cost of addressing the state's school building and construction needs stood at $637 million.

Mr. President, we simply cannot allow our nation's schools to fall into utter disrepair and obsolescence with children sitting in classrooms that have leaky ceilings or rotting walls. We cannot ignore the need for new schools as the record number of children enrolled in K–12 schools continues to grow.

Accordingly, because the cost of repairing and building these facilities may prove to be more than many state and local governments can bear in a short period of time, I believe the federal government can and should assist Maine and other state and local governments in addressing this growing national crisis.

Admittedly, not all members support strong federal intervention in what has been historically a state and local responsibility. In fact, many argue with merit that the best form of federal assistance for school construction or other local educational needs would be for the federal government to fulfill its commitment to fund 40 percent of the cost of special education. This longstanding commitment was made when the Individuals with Disabilities Education (IDEA) Act was signed into law

more than 20 years ago, but the federal government has fallen woefully short in upholding its end of the bargain, only recently increasing its share above 10 percent.

Needless to say, I strongly agree with those who argue that the federal government's failure to fulfill this mandate represents nothing less than a raid on the pocketbook of every state and local government. Accordingly, I am pleased that recent efforts in the Congress have increased federal funding for IDEA by approximately $3.8 billion over the past five years, and I support ongoing efforts to achieve the 40 percent federal commitment in the near future.

Yet, even as we work to fulfill this long-standing commitment and thereby free-up local resources to address local needs, I believe the federal government can do more to assist state and local governments in addressing their school construction needs without infringing on local control.

Mr. President, the legislation we are offering today—the ''BRICKS Act''—will do just that. Specifically, it addresses our nation's school construction needs in a responsible fiscal manner while bridging the gap between those who advocate a more activist federal role in school construction and those who do not.

First, our legislation will provide $20 billion in federal loans to support school construction, renovation, and repair at the local level. By designating that at least one-half of these loan monies must be used to pay the interest owed to bondholders on new school construction bonds that are issued through the year 2003, the federal government will leverage the issuing of new bonds by states and localities that would not otherwise be made. In addition, by providing that up to one-half of the monies may be used for state-wide school construction initiatives, the bill provides needed flexibility to ensure that unique state and local approaches to school construction will also be supported, such as revolving loan funds.

Of importance, these loan monies—which will be distributed on an annual basis using the Title I distribution formula—will become available to each state at the request of a Governor. While the federal loans can only be used to support bond issues that will supplement, and not supplant, the amount of school construction that would have occurred in the absence of the loans, there will be no requirement that states engage in a lengthy application process that does not even assure them of their rightful share of the $20 billion pot.

Second, our bill ensures that these loans are made by the federal government in a fiscally responsible manner that does not cut into the Social Security surplus or claim a portion of non-Social Security surpluses that may prove ephemeral in the future.

Specifically, our bill would make these loans to states from the Exchange Stabilization Fund (ESF)—a fund that was created through the Gold Reserve Act of 1934 and has grown to hold more than $40 billion in assets. The principal activity of the fund—which is controlled solely by the Secretary of the Treasury—is foreign exchange intervention that is intended to limit fluctuations in exchange rates. However, the fund has also been used to provide stabilization loans to foreign countries, including a $20 billion line of credit to Mexico in 1995 to support the peso.

In light of the controversial manner in which the ESF has been used, some have argued that additional constraints should be placed on the fund. Still others—including former Federal Reserve Board Governor Lawrence B. Lindsey—have stated that, for various reasons, the fund should be liquidated.

Regardless of how one feels about exercising greater constraint over the ESF or liquidating it, I believe that if this $40 billion fund can be used to bail-out foreign currencies, it certainly can be used to help America's schools.

Accordingly, I believe it is appropriate that the $20 billion in loans provided by my legislation will be made from the ESF—an amount identical to the line of credit that was extended to Mexico by the Secretary of the Treasury in 1995. Of importance, these loans will be made from the ESF on a progressive, annual basis—not in a sudden or immediate manner. Furthermore, these monies will be repaid to the fund to ensure that the ESF is compensated for the loans it makes.

Although the ESF will recoup all of the monies it lends, it should also be noted that my proposal ensures that states and local governments will not be forced to pay excessive interest, or that they will be forced to repay over an unreasonable period of time. In fact, if the federal government fails to substantially increase its share of IDEA funding, states will incur no interest at all!

Specifically, to encourage the federal government to meet its funding commitment for IDEA—and to compensate states for the fact that every dollar in forgone IDEA funding is a dollar less that they have for school construction or other local needs—our bill would impose no interest on BRICKS loans during the first five years provided the 40 percent funding commitment is not met.

Thereafter, the interest rate is pegged to the federal share of IDEA: zero in any year that the federal government fails to fund at least 20 percent of the cost of IDEA; 2.5 percent—the long-term projected inflation rate—in years that the federal share falls between 20 and 30 percent; 3.5 percent in years the federal share is 30 to 40 percent; and 4.5 percent in years the full 40 percent share is achieved.

Combined, these provisions will minimize the cost of these loans to the states, and maximize the utilization of these loans for school construction, renovation, and repair.

Mr. President, by providing low-interest loans to states and local governments to support school construction, I believe that our bill represents a fiscally-responsible, centrist solution to a national problem.

For those who support a direct, active federal role in school construction, our bill provides substantial federal assistance by dedicating $20 billion to leverage a significant amount of new school construction bonds. For those who are concerned about the federal government becoming overly-engaged in an historically state and local responsibility—and thereby stepping on local control—my bill directs that the monies provided to states will be repaid, and that no onerous applications or demands are placed on states to receive their share of these monies.

Mr. President, I urge that my colleagues support the ''BRICKS Act''—legislation that is intended to bridge the gap between competing philosophies on the federal role in school construction. Ultimately, if we work together, we can make a tangible difference in the condition of America's schools without turning it into a partisan or ideological battle that is better suited to sound bites than actual solutions.

Thank you, Mr. President. I ask unanimous consent that the letters of support from the NEA, PTA, NASBE, and Jim Rier, the Chairman of the Maine State Board of Education, be printed in the RECORD.

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

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, July 13, 2000.

Sen. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the National Education Association's (NEA) 2.5 million members, we would like to thank you for your leadership in introducing a revised version of the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act.

As you known, our nation's schools are in desperate need of repair and renovation. Too many students attend classes in overcrowded buildings with leaky roofs, faulty wiring, and outdated plumbing. A recently-released NEA study documents more than $300 billion in unmet infrastructure and technology needs, nearly three times the level estimated in previous research by the General Accounting Office.

NEA believes the revised BRICKS Act offers a meaningful avenue for assisting schools. The bill would make available $20 billion in guaranteed funding over 15 years to provide low-interest—and in many cases zero interest—school modernization loans to states and schools. According to a preliminary Department of Education analysis, the BRICKS Act would provide schools with a benefit of $465 for each $1,000 in bonds.

We are pleased that the BRICKS Act would allow up to 50 percent of federal funds to be used for payment of actual construction costs or the principal portion of loans, as well as the interest costs. We also appreciate the provision allowing those states with laws that prohibit borrowing to pay the interest costs on school bonds to use 100 percent of their BRICKS loans for state revolving loan

funds or other state administered school modernization programs.

NEA believes it is essential to enact meaningful school modernization assistance this year. We thank you for your leadership in this area and look forward to continuing to work with you toward passage of bipartisan school modernization legislation.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

NATIONAL PTA®,
Chicago, IL, July 7, 2000.

Hon. LINCOLN D. CHAFEE,
U.S. Senate, Washington, DC.
Hon. OLYMPIA J. SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATORS CHAFEE AND SNOWE: On behalf of the 6.5 million parents, teachers, students, and other child advocates who are members of the National PTA, I am writing to support the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act, which you plan to introduce next week.

We thank you for your leadership in proposing this initiative, which acknowledges the federal government's responsibility to help schools repair and renovate their facilities. As you are aware, the U.S. General Accounting Office has estimated that the cost of fixing the structural problems in schools across the nation will cost more than $112 billion. If new schools are built to accommodate overcrowding, and if schools's technology, wiring, and infrastructure needs are added in, this estimate would exceed $200 billion dollars.

This is a problem schools cannot address without a partnership with the federal government, and National PTA supports a variety of approaches to address this growing crisis. In addition to endorsing the BRICKS bill, National PTA is supporting the Public School Repair and Renovation Act, which would provide tax credits to pay the interest on school modernization bonds and create a grant and loan program for emergency repairs in high-need districts; and also the America's Better Classrooms Act, which would provide $22 billion over two years in zero interest school construction and modernization bonds.

Under BRICKS, nearly $20 billion would be available over 15 years to provide low interest, and in many cases zero interest, loans to States for interest payments on their school modernization bonds. We are pleased that the proposal will allow increased flexibility in using the federal funds for interest payments, as well as for other state-administered programs that assist state entities or local governments pay for the construction or repair of schools.

National PTA is committed to helping enact a federal school modernization proposal this Congress. We believe the BRICKS Act should be promoted as one of the ways the federal government can assist schools, and we thank you for your leadership in this area. We look forward to continuing to work with you toward formulation and passage of bipartisan school modernization legislation.

Sincerely,

VICKI RAFEL,
Vice President for Legislation.

NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION,
Alexandria, VA, July 18, 2000.

Hon. OLYMPIA SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: The National Association of State Boards of Education (NASBE) is a private nonprofit association representing state and territorial boards of education. Our principal objectives are to strengthen state leadership in education policy-making, promote excellence in the education of all students, advocate equality of access to educational opportunity, and assure responsible governance of public education.

We are writing to applaud your efforts to provide federal assistance to states for school construction. The deterioration of America's school infrastructure has reached crisis proportions. At least one-third of all U.S. schools are in need of extensive repairs or replacement and 60% have at least one major building deficiency such as cracked foundations, leaky roofs, or crumbling walls. We cannot expect our children to learn much less excel in such decrepit and unsafe environments.

The more than $112 billion needed to renovate and/or repair existing school facilities has simply overwhelmed state and local resources. This national problem demands federal attention and we are encouraged that your office is attempting to address this need by proposing a $20 billion federal loan program.

Your legislation, the Building, Renovating, Improving, and Constructing Kids' Schools Act (BRICKS), will leverage new school construction expenditures at the state and local levels and provides flexibility to integrate this assistance with the variety of solutions states have already undertaken, such as revolving funds, to enhance the financing of school construction.

We appreciate your efforts and attention to address this critical situation. NASBE is encouraged by your actions and we look forward to working with your office to foster a partnership between federal, state and local entities to improve the learning conditions of American children.

Sincerely,

BRENDA LILIENTHAL WELBURN,
Executive Director.

STATE BOARD OF EDUCATION,
Augusta, ME, April 29, 2000.

Sen. OLYMPIA J. SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: The age and condition of our nation's public schools are an expanding crisis and should be of great concern to all. Decades of neglect, unfunded maintenance programs, constrained state and municipal budgets, shifting populations, technology requirements, and programmatic changes have combined to weaken the infrastructure of public education. As you are well aware, a 1995 GAO report estimated that just repairing existing school facilities would cost $112 billion. In addition, building new facilities to meet the demands of program and increased enrollments could cost another $73 billion. We have allowed the condition of our schools to deteriorate to a point that there are now critical implications for the health and safety of our students and staff who occupy those buildings. A number of states have launched major efforts to address their school facilities needs. The task is huge and beyond the ability of most local and even state resources.

Unfortunately, Maine mirrors the nation. A Facilities Inventory Study, conducted in 1996 by the Department of Education and the University of Maine's Center for Research and Evaluation, identified approximately $650 million in needed facility improvements. Of particular concern was the need for over $60 million in serious health and safety related improvements as well as an additional $150 million in other renovation and upgrades required.

In response to Maine's survey of over 700 buildings, Governor King appointed a Commission to develop a plan to address the needs identified. Their report was delivered to the Maine Legislature in February 1998, and the recommendations were enacted in April 1998. Maine has responded to address the identified needs with significant state and local resources. However, even as we develop policy and resources to aggressively address those needs, our concern grows.

Progressing from the condition survey to a detailed engineering and environmental analysis of the conditions causes even greater alarm. Roofs that were reported as leaking in the survey are found to have serious structural integrity problems with greater safety risks for occupants as well as more complex and costly solutions. indoor air quality problems in the survey grow from increased air exchange solutions to more complex ones due to mold and microbial growth in the interior walls. Again, this poses increased health risk for students and staff. As we learn more about the problems, our concerns grow and the necessary resources increase. The critical health and safety needs from the 1996 survey ($60 million) have grown to over $86 million in our latest project estimates. Many more projects are yet to be identified.

Applications for Major Capital Construction projects were received in August of 1999 from over 100 buildings throughout Maine. Even with a major new commitment of over $200 million from this Session of the Maine Legislature we will only be able to address approximately 20 of those projects over the next two years. More will be applying in the next two-year cycle that begins in July 2001.

Although school construction and modernization is and should remain primarily a state and local responsibility, states and school districts cannot meet the current urgent needs alone. Federal assistance in the form of reduced or low interest loans as you have included in S1992, the BRICKS ACT, responds to the urgent need and could provide a critical component to a comprehensive but flexible approach to address Maine's, as well as the nation's, school facilities needs. As currently proposed, your legislation would allow the flexibility to address the renovation and upgrade of existing facilities as well as provide relief for overcrowding and insufficient program space where major capital construction is required. It creates an effective local/state/federal partnership, while leaving decisions about which schools to build or repair up to states and local school units. In Maine, that would allow us to strengthen our Revolving Renovation Fund (created to aid local units in the upgrade and renovation of existing buildings), and it would enhance our bonding capacity for long term debt commitment to major capital construction projects.

Structurally unfit, environmentally deficient, or overcrowded classrooms impair student achievement, diminish student discipline, and compromise student safety. Although not cited often, the learning environment does affect the quality of education and our ability to help students achieve high standards.

The National Association of State Boards of Education has identified school construction as one of its priority issues. I serve as Vice-Chair of their Governmental Affairs Committee and would be happy to enlist their help in focusing the nation's attention on the poor condition of our schools and the need for comprehensive federal assistance. If you have questions or need information from NASBE please contact David Griffith, Director of Governmental Affairs at 703–684–4000. As Chairman of the Maine State Board of Education and the Governor's School Facilities Commission I am available and would be pleased to participate in any way you think appropriate to outline Maine's innovative and comprehensive school facilities program,

and to elaborate on how federal assistance could best complement state and local efforts to address our school construction needs.

It was an honor to meet you in March during NASBE's Legislative Conference. I look forward to working with you in support of a federal partnership with state and local school units to provide a safe, healthy, and effective learning environment for all.

Sincerely,

JAMES E. RIER, Jr., *Chair,*
Maine State Board of Education.

By Mrs. FEINSTEIN:

S. 120. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

MASTER TEACHER BILL

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to create a demonstration grant program to help school districts create master teacher positions.

The bill authorizes $100 million for a five-year demonstration program under which the Secretary of Education would award competitive grants to school districts to create master teacher positions. Federal funds would be equally matched by states and local governments so that $200 million total would be available. Under the bill, 6,600 master teacher positions could be created if each master teacher were paid $30,000 on top of the current average teacher's salary.

As defined in this bill, a master teacher is one who is credentialed; has at least five years of teaching experience; is judged to be an excellent teacher by administrators and teachers who are knowledgeable about the individual's performance; is currently teaching; and enters into a contract and agrees to serve at least five more years.

The master teacher would help other teachers to improve instruction, strengthen other teachers' skills, mentor less experienced teachers, develop curriculum, and provide other professional development.

The goal of this bill is for districts to pay each master teacher up to $30,000 on top of his or her regular salary. Nationally, the average teacher salary is $40,574. In California, it is $45,317. School principals receive $76,768 on average nationally and $72,805 in California. School superintendents nationally earn $106,122 and in California, $102,054. The purpose of the master teacher concept in this bill is to pay teachers a salary closer to that of an administrator to keep good teachers in teaching.

The bill requires State and/or local districts to match federal funds dollar for dollar. It requires the U.S. Department of Education to give priority to school districts with a high proportion of economically disadvantaged students and to ensure that grants are awarded to a wide range of districts in terms of the size and location of the school district, the ethnic and economic composition of students, and the experience of the districts' teachers.

There are several reasons we need this bill.

Beginning teachers face overwhelming challenges in their first year, but in the real world, they get little guidance or support, in a year that will have a profound impact on the rest of their professional career. They often feel ''out there'' and ''alone,'' thrown into an unfamiliar school and classroom with a room full of new faces. By the current sink-or-swim method, new teachers often find themselves ill equipped to deal with the educational and disciplinary tasks of their first year.

A new teacher can get experienced guidance from a master teacher who is paired with the new teacher. The master teacher can help plan lessons, improve instructional methods, and deal with discipline problems. Having this kind of professional support can give these new teachers the skills and confidence to stay in teaching.

Second, master teacher programs can bring more prestige to teaching as a profession, by increasing the teacher's salary, by rewarding experience, and by giving teachers opportunities to supervise others. A master teacher designation is a way to recognize outstanding ability and performance, and to reward the good teachers. A master teacher position can give teachers a professional goal, a higher level to pursue. A 1996 report by the National Commission for Teaching and American's Future said that creating new career paths for teachers is one of the best ways to give educators the respect they deserve and to ensure that proven teaching methods spread quickly and broadly.

In one survey of teachers which asked which factors make teachers stay in teaching, 79 percent of teachers said that respect for the teaching profession is needed in order to retain qualified teachers. Eighty percent said that formal mentoring programs for beginning teachers is key (Scholastic/Chief State School Officers' Teacher Voices Survey, 2000). Over 70 percent of teachers said that more planning time with peers is needed to keep teachers in the classroom. This amendment should help.

Because of the higher pay and enhanced prestige, a master teacher program can help to recruit and retain teachers. Mentor systems provide new teachers with a support network, someone to turn to. Studies indicate higher retention rates among new teachers who participate in mentoring programs. According to Yvonne Gold of California State University-Long Beach, 25 percent of beginning teachers do not teach more than two years and nearly 40 percent leave in the first five years. In the Rochester, New York, system, the teacher retention rate was nearly double the national average five years after establishing a mentoring program.

As Jay Matthews wrote in the May 16, 2000, Washington Post, programs like this ''can provide a large boost to the profession's image for a relatively small amount of money.'' These programs can keep good teachers in the classroom, instead of losing them to school administration or industry.

Higher salaries and prestige for master teachers could deter the drain from the classrooms.

Another reason for this bill is that teacher mentoring programs can make teacher performance more accountable. A master teacher can help novice teachers improve their teaching and get better student achievement. ''Teachers cannot be held accountable for knowledge based, client-oriented decisions if they do not have access to knowledge, as well as opportunities for consultation and evaluation of their work,'' said Adam Urbanski, President of the Rochester, New York, Teachers Association. He went on: ''Unsatisfactory teacher performance often stems from inadequate and incompetent supervision. Administrators often lack the training and the resources to supervise teachers and improve the performance of those who are in serious trouble.''

Good teachers are key to learning. Lower math test scores have been correlated with the percentage of math teachers on emergency permits and higher math test scores were linked both to the teachers' qualifications and to their years of teaching experience, according to ''Professional Development for Teachers, 2000.''

This bill could be very helpful in California where one-fifth of our teachers will leave the profession in three years, according to an article in the February 9, 2000, Los Angeles Times. One-half of our teachers are over age 44.

California will need 300,000 new teachers by 2010. ''More students to teach, smaller classes, and teachers leaving or retiring means that California school districts are now having to hire a record 26,000 new teachers each year,'' says the report, ''Teaching and California's Future, 2000.'' California's enrollment is growing at three times the national rate. With these kinds of demands, understaffing often leads to under qualified and new teachers entering the classroom. We have to do all we can to attract and retain good teachers.

The true beneficiaries of master teacher programs are the students and that is, of course, my fundamental goal. As stated in Rochester's teaching manual, the goal is ''to improve student outcomes by developing and maintaining the highest quality of teaching, providing teachers with career options that do not require them to leave teaching to assume additional responsibilities and leadership roles.''

I believe this bill can begin to provide teachers the real professional support they need, can attract and retain teachers and can bring to the teaching profession the prestige it deserves.

I urge my colleagues to join us in support of this bill.

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

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

S. 120

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 ''Master Teacher Act of 2001''.

SEC. 2. MASTER TEACHER DEMONSTRATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) MASTER TEACHER.—The term ''master teacher'' means a teacher who—

(A) is licensed or credentialed under State law;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is selected upon application, is judged to be an excellent teacher, and is recommended by administrators and other teachers who are knowledgeable of the individual's performance;

(D) at the time of submission of such application, is teaching and based in a public school;

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development; and

(F) enters into a contract with the local educational agency to continue to teach and serve as a master teacher for at least 5 additional years.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(b) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Not later than July 1, 2002, the Secretary shall conduct a demonstration project under which the Secretary shall award competitive grants to local educational agencies to increase teacher salaries and employee benefits for teachers who enter into contracts with the local educational agencies to serve as master teachers.

(2) REQUIREMENTS.—In awarding grants under the demonstration project, the Secretary shall—

(A) ensure that grants are awarded under the demonstration project to a diversity of local educational agencies in terms of size of school district, location of school district, ethnic and economic composition of students, and experience of teachers; and

(B) give priority to local educational agencies in school districts that have schools with a high proportion of economically disadvantaged students.

(c) APPLICATIONS.—In order to receive a grant under the demonstration project, a local educational agency shall submit an application to the Secretary that contains—

(1) an assurance that funds received under the grant will be used in accordance with this section; and

(2) a detailed description of how the local educational agency will use the grant funds to pay the salaries and employee benefits for positions designated by the local educational agency as master teacher positions.

(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a local educational agency under the demonstration project unless the local educational agency agrees that, with respect to costs to be incurred by the agency in carrying out activities for which the grant was awarded, the agency shall provide (directly, through the State, or through a combination thereof) in non-Federal contributions an amount equal to the amount of the grant awarded to the agency.

(e) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than July 1, 2005, the Secretary shall conduct a study and transmit a report to Congress analyzing the results of the demonstration project conducted under this section.

(2) CONTENTS OF REPORT.—The report shall include—

(A) an analysis of the results of the project on—

(i) the recruitment and retention of experienced teachers;

(ii) the effect of master teachers on teaching by less experienced teachers;

(iii) the impact of mentoring new teachers by master teachers; and

(iv) the impact of master teachers on student achievement; and

(B) recommendations regarding—

(i) continuing or terminating the demonstration project; and

(ii) establishing a grant program to expand the project to additional local educational agencies and school districts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000, for the period of fiscal years 2002 through 2006.

By Mrs. FEINSTEIN (for herself and Mr. GRAHAM):

S. 121. A bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

UNACCOMPANIED ALIEN CHILD PROTECTION ACT

Mrs. FEINSTEIN. Mr. President. I rise today to introduce legislation to change the way unaccompanied immigrant children are treated while in the custody of the Immigration and Naturalization Service (INS). If enacted, the Unaccompanied Alien Child Protection Act of 2001 would ensure that the federal government addresses the special needs of thousands of unaccompanied alien children who enter the U.S. It will ensure that these children have a fair opportunity to obtain humanitarian relief.

Central throughout this legislation are two concepts: The United States government has a fundamental responsibility to protect unaccompanied children in its custody; and in all proceedings and actions, the government's ultimate priority should be to protect the best interests of children.

The Unaccompanied Alien Child Protection Act of 2001 would ensure that children who are apprehended by the INS are treated humanely and appropriately by transferring jurisdiction over their welfare from the INS Detention and Deportation division to a newly created Office of Children's Services within the Department of Justice.

This legislation would also centralize responsibility for the care and custody of unaccompanied children in this new Office of Children's Services. By doing so, it would resolve the conflict of interest inherent in the current system—that is, the INS retains custody of children and is charged with their care while, at the same time, it seeks their deportation.

Under this bill, the Office of Children's Services would be required to establish standards for the custody, release, and detention of children, ensuring that children are housed in appropriate shelters or foster care rather than juvenile jails. In 1999, the INS held some 2,000 children in juvenile jails even though they had never committed a crime. Equally as important, the bill would require the Office to establish clear guidelines and uniformity for detention alternatives such as shelter care, foster care, and other child custody arrangements.

The bill would improve unaccompanied aliens' access to existing options for permanent protection when U.S. immigration and child welfare authorities believe such protection is warranted.

Finally, the Unaccompanied Alien Child Protection Act would provide unaccompanied minors with access to legal counsel, who would ensure that the children appear at all immigration proceedings and assist them as the INS and immigration court consider their cases. The bill would also provide the children with access to a guardian ad litem to ensure that they are properly placed in a safe and caring environment. The guardian ad litem would also work to ensure that each child's best interests are protected throughout the process.

Let me turn for a moment to the issue of access to counsel. Children, even more than adults, have incredible difficulty understanding the complexities of the asylum system without the assistance of counsel. Despite this reality, most children in INS detention are overlooked and unrepresented. Without legal representation, children are at risk of being returned to their home countries where they may face further human rights abuses.

I am aware of two cases that demonstrate the compelling need for counsel on behalf of these children. The first case involves two 17-year old boys from China. Li and Wang, who were apprehended on an island near Guam and had been in INS custody for almost two years. During their detention in Guam, the two boys testified in federal court against the smugglers who brought them to Guam. In their testimony, they described being beaten by the smugglers even before leaving China, and stated that others were beaten during the trip to Guam. In the spring of 2000, the two boys were brought to a corrections facility in Los Angeles and

detained in the INS section of that facility. This is where the similarity in their cases end.

Mr. President, while both of the boys would face danger from the smugglers if they returned to China because of their testimony, only one was granted asylum. Li applied for asylum and was denied. He was not represented by counsel at his hearing. Despite the fact that the INS trial attorney mentioned that Li had testified in federal court against the smugglers, the judge did not include this information in her decision on the claim. Luckily for Li, an attorney overheard the hearing, and after speaking with Li, agreed to appeal his asylum claim. Li is still being held in a Los Angeles corrections facility. The story is different for Wang. Wang had an attorney and won his asylum hearing. But INS is appealing the decision so Wang remains in a Los Angeles corrections facility, as well.

Mr. President, these cases demonstrate the pressing need for legal representation of children. Had he been represented by counsel and if his testimony would have been incorporated into his case, Li may have won his asylum claim. Instead, a 17-year-old boy unfamiliar with our immigration system and our language was forced to navigate the complex court system alone.

According to Human Rights Watch, children detained by the INS, whether in secure detention or less restrictive settings, often have great difficulty obtaining information about their legal rights. On a 1998 visit to the Berks County Juvenile Detention Center in Reading, Pennsylvania, Human Rights Watch staff found that none of the children they interviewed had received information from the INS or the facility's staff about their rights or the legal services available to them.

Unaccompanied alien children are among the most vulnerable of the immigrant population; many have often entered the country under traumatic circumstances. They are young and alone, subject to abuse and exploitation. These unaccompanied children are unable to articulate their fears, their views, or testify to their needs as accurately as adults can.

Despite these facts, U.S. immigration laws and policies have been developed and implemented without caring about their effect on children, particularly on unaccompanied alien children.

Sadly, the INS detains more than 5,000 children nationwide each year. They are apprehended for not having proper documentation at ports-of-entry into the United States. Their detention may last for months—or sometimes for years—as they undergo complex and arduous immigration proceedings.

Under current immigration law, these children are forced to struggle through a system designed primarily for adults, even though they lack the capacity to understand nuanced legal principles and procedures. Children who may very well be eligible for relief are often vulnerable to being deported back to the very abusive situations from which they fled before they are able to make their case before the INS or an immigration judge.

Under current law, the INS is responsible for the apprehension, detention, care, placement, legal protection, and deportation of unaccompanied children. I believe that these are conflicting responsibilities that undercut the best interests of the child. Too often, the INS has fallen short in fulfilling the protection side of these responsibilities.

The INS uses a variety of facilities to house children. Some are held in children's shelters in which children are offered some of the services they need but still may experience prolonged detention, lack of access to counsel, and other troubling conditions.

The INS relies on juvenile correctional facilities to house many children, even in the absence of any criminal wrongdoing. Today, one out of every three children in INS custody is detained in secure, jail-like facilities. These facilities are highly inappropriate, particularly for children who have already experienced painful trauma in their homelands.

There is currently no provision of federal law providing guidance for the placement of unaccompanied alien children. In 1987, the Flores v. Reno settlement agreement on behalf of minors in INS detention established the nationwide policy for the detention, release, and treatment of children in the custody of INS. The Flores agreement requires that the INS treat minors with dignity, respect, and special concern for their particular vulnerability. It also requires the INS to place each detained minor in the least restrictive setting appropriate to the child's age and special needs.

In response to Flores, the INS issued regulations that permitted its officers to detain children in secure facilities only in limited circumstances. The INS officers were required to provide written notice to the child of the reasons for such placement. More importantly, the regulations required the INS to segregate immigration detainees from juvenile criminal offenders.

Although INS officials have contended that these children are placed in these facilities largely because they are charged with other offenses, the INS statistics do not bear out this claim. In fiscal year 1999, only 19 percent of the children placed in secure detention were chargeable or adjudicated as delinquents.

According to non-governmental organizations (NGOs) such as Human Rights Watch and the Women's Commission on Refugee Women and Children, the INS regularly violates these regulations. The NGOs contend that all too often children are placed in jail-like facilities for seemingly arbitrary reasons, seldom notified of the reasons why, and forced to share rooms and have extensive contact with convicted juvenile offenders.

I was also astonished to learn that many of these children, some as young as four and five years old, are placed behind multiple layers of locked doors, surrounded by walls and barbed wire. They are strip searched, patted down, placed in solitary confinement for punishment, forced to wear prison uniforms and shackles, and are forbidden to keep personal objects. Often they have no one to speak with because of the language barrier.

The Unaccompanied Alien Child Protection Act of 2001 would ensure that the particular needs of the thousands of unaccompanied alien children who enter INS custody each year are met and that these children have a fair opportunity to obtain immigration relief when eligible.

In 1999, the INS held approximately 4,600 children under the age of 18 in its custody. Some of these children fled human rights abuses or armed conflict in their home countries, some were victims of child abuse or had otherwise lost the support and protection of their families, some came to the United States to join family members, and some came to escape economic deprivation.

Many of these children came from troubled and war-torn countries around the world, including the Peoples Republic of China, Honduras, Afghanistan, Somalia, Sierra Leone, Colombia, Guatemala, Cuba, former Yugoslavia, and others. They range in age from toddlers to teenagers. Some traveled to the United States alone, while others were accompanied by unrelated adults.

Sadly, a significant number are victims of smuggling or trafficking rings. In one recent instance, Phanupong Khaisri, a two-year old Thai child, was brought to the U.S. by two individuals falsely claiming to be his parents, but who were actually part of a major alien trafficking ring. The INS was prepared to deport the child back to Thailand. It was not until Members of Congress and the local Thai community had intervened, however, that the INS decided to allow the child to remain in the U.S. until the agency could provide proper medical attention and determine what course of action would be in his best interest. Now his case is before a federal district court judge who will determine whether he should be eligible to apply for asylum.

The Unaccompanied Alien Child Protection Act aims to prevent situations like this from recurring by centralizing the care and custody of unaccompanied children into a new Office of Children's Services within the INS, but outside the jurisdiction of the District Directors. By doing so, the Act resolves the conflict of interest inherent in the current system—that is, the INS retains custody of children and is charged with their care while, at the same time, it seeks their deportation.

Mr. President, I would like to take a moment to share with you a few other examples of how the federal government has fallen short in the manner in

which we handle vulnerable unaccompanied minors. One would think that our country would treat unaccompanied minors with the sensitivity and care their situations demand. Unfortunately, in too many instances, that has not been the case. Too often, these children are often treated like adults and, under the worst circumstances, like criminals.

Xaio Ling, a young girl from China who spoke no English, was detained by the INS at the Berks County Juvenile Detention Center. The INS placed her among children guilty of violent crimes, including rape and murder. Xaio was never guilty of any crime, and yet she slept in a small concrete cell, was subjected to humiliating strip searches, and forced to wear handcuffs. She was forbidden to keep any of her clothes or possessions and, under the policies of the Berks Center, Xaio was not allowed to laugh—not that she had anything to laugh about.

Imagine the fear this child had to endure: thrust into a system she did not understand, given no legal aid, placed in jail that housed juveniles with serious criminal convictions, including murder, car jacking, rape, and drug trafficking. She did not speak English and was unable to speak to any staff who knew her language, and she had to submit to strip searches. It is hard to believe that our country would have allowed this innocent child to be treated in such a horrible manner.

Situations like that of this young Chinese girl make a compelling case for changes in the way our nation treats unaccompanied alien children. Under the legislation I have introduced today, this youngster never would have been placed in a detention center with criminal offenders. Rather, she would have immediately been placed in shelter care, foster care, or a home more appropriate for her situation. She would have been provided an attorney for her immigration proceedings and a social worker would have been appointed as guardian ad litem to ensure that her needs were being met. Sadly, this young girl was given none of these options.

Neither was a 16 year-old boy from Colombia, who fled Colombia to escape a life of violence on the streets of Bogota, where FARC guerillas attempted to recruit him and the F–2 branch of the Colombian government harassed him in its attempt to get rid of street children. Fearing for his life, he fled Colombia for Venezuela where he lived without shelter or sufficient food. In search of a safer life, he sneaked into the machine room of a cargo ship bound for the United States. He was lucky to survive; many other stowaways were thrown overboard when discovered by the ship's crew.

The boy remained on the ship from November 1998 until March 1999, when he arrived in Philadelphia. He was soon turned over to the INS and placed into the same detention center in which the young Chinese girl was held. He, too, was kept with criminal offenders. He did not understand English, which created a myriad of problems because he was unable to understand what was expected of him in the detention center. He was held in an inappropriately punitive environment for six months.

I have one last story to share with you today. Placed on a boat bound for the United States by her very own parents, a 15-year-old girl fled China's rigid family planning laws. Under these laws she was denied citizenship, education, and medical care. She came to this country alone and desperate. And what did our immigration authorities do when they found her? They held her in a juvenile jail in Portland, Oregon. She was held for eight months and was detained for an additional four months after being granted political asylum. At her asylum hearing, the young girl could not wipe away the tears from her face because her hands were chained to her waist. According to her lawyer, ''her only crime was that her parents had put her on a boat so she could get a better life over here.''

Mr. President, for years children's rights and human rights activists have implored Congress to improve the way our immigration system handles unaccompanied minors—just like the ones whose stories I have just told. I believe my bill would do just that.

We cannot continue to allow children, who come to our country, often traumatized and guilty of no crime, to be held in jails and treated like criminals. We cannot continue to allow children, scared and helpless, to be thrown into a system they do not understand without sufficient legal aid and a guardian to look after their best interests. We must adhere to the principles of our justice system. What kind of message do we send when we deprive children who come to our country seeking refuge of their basic rights and protections?

As a nation that holds our democratic ideals and constitutional rights paramount, how then can we continue to avert our attention from repeated violations of some of the most basic human rights against children who have no voice in the immigration system? We should be outraged that children who come to the U.S. alone, many against their will, are subjected to such inhumane, excessive conditions.

I am proud to have the support of the United States Catholic Conference and the Women's Commission on Refugee Women and Children, with whom I have worked closely to develop this legislation.

I urge my colleagues to join with me by cosponsoring this important measure.

Mr. CAMPBELL:

S. 122. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes; to the Committee on Rules and Administration.

ARMED SERVICES VOTING RIGHTS PROTECTION ACT

Mr. CAMPBELL. Mr. President, today I introduce the ''Armed Services Voting Rights Protection Act of 2001.''

This important legislation takes a two pronged approach to help address the technical problems that resulted in far too many of the ballots cast by those serving in our nation's Armed Services being thrown out in the last election.

The first part of the bill would amend the Uniformed and Overseas Citizens Absentee Voting Act of 1986 to help protect the voting rights of our armed services members. This first part is companion language to a bill, H.R. 159, that has been introduced in the 107th Congress by Representative BOB RILEY of Alabama.

Specifically, this part of the bill would prohibit a state from determining that an absentee ballot submitted by a uniformed services voter has been improperly cast unless the state finds clear and convincing evidence of fraud. It states that the lack of a witness signature, address, postmark, or other identifying information cannot not be considered clear and convincing evidence of fraud unless there is other evidence or information. Further, it is designed to have no effect on filing deadlines as determined by the states.

The second part of the Armed Services Voting Rights Protection Act directs the United States Postal Service to conduct joint studies with each of the branches of our Armed Services to examine what went wrong during the last election that caused so many of the ballots cast by our nation's Soldiers, Sailors, Airmen and Marines to be thrown out, often for minor technical reasons. It directs the U.S. Postal Service and the Armed Services to report back to congress within 120 days of the enactment of this Act with recommendations about how to improve the U.S. Post Office's interface with the Armed Services and help prevent a repeat performance where so many overseas military ballots were thrown out. It also directs them to implement the changes that can be done without changing current law and recommend further changes in law that Congress may want to consider. These efforts should also help improve the overall day-to-day relationship between the Armed Services and Postal Service.

The need for this bill is clear. While ballots were being counted during the most recent presidential election, an army of trial lawyers was sent out in a coordinated effort to systematically eliminate many of the votes cast by Americans serving in our nation's Armed Services overseas. These efforts to throw out ballots, usually for minor technical reasons, were all too successful. We need to do what we can to make sure it does not happen again.

As a veteran and a member of the Senate Veterans Affairs Committee, I

believe throwing out votes cast by those serving in the Armed Services over technicalities is simply wrong on the most fundamental level. Our nation's Marines, Sailors, Airmen and Soldiers serve on the front lines in the defense of our great nation and constitutional democracy. To toss out so many of their ballots, and especially those cast by those serving at the forefront of our defense by being underway at sea or serving in remote hardship posts, is no way to show appreciation for their service.

Many Americans, myself included, are deeply concerned that the last election sent a clear signal to those serving in the Armed Forces that even though they may be putting their very lives on the line in the defense of our nation, and are duty bound to obey orders issued by their Commander in Chief, the President of the United States, there is a good chance that their right to have a voice, through a vote, in the selection of that President may be eliminated by the most minor of technicalities. This situation is made even worse by the fact that the very technical problems that may disqualify their ballots, like lack of access to postal marks, are often well beyond the control of individual Sailors, Soldiers, Marines and Airmen.

In order to vote, most of our fellow Americans serving in the Armed Services already have to jump through more hoops that the average citizen. We must do what we can to make it easier for them to jump through those hoops, rather that using these hoops as a way to trip up their right to vote.

Late last year, our nation witnessed an unprecedented assault on votes cast by our nation's Soldiers, Sailors, Airmen and Marines, and especially those serving overseas. The Armed Services Voting Rights Protection Act would be an important step in making sure that it does not happen again. I urge my colleagues to support this legislation.

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

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

S. 122

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 ''Armed Services Voting Rights Protection Act of 2001''.

SEC. 2. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by striking ''Each State'' and inserting ''(a) IN GENERAL.—Each State''; and

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

''(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter on the grounds that the ballot was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud in the preparation or casting of the ballot by the voter.

''(2) CLEAR AND CONVINCING EVIDENCE.—For purposes of this subsection, the lack of a witness signature, address, postmark, or other identifying information may not be considered clear and convincing evidence of fraud (absent any other information or evidence).

''(3) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 3. STUDY AND REPORT BY THE POSTAL SERVICE ON IMPROVING THE SUBMISSION OF ABSENTEE BALLOTS BY ABSENT UNIFORMED SERVICES VOTERS IN ELECTIONS FOR FEDERAL OFFICE.

(a) STUDY.—

(1) IN GENERAL.—The Postal Service shall conduct a study to determine each reason for which an absentee ballot of an absent uniformed services voter (as defined in paragraph (1) of section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6)) was not counted in the general election for Federal office (as defined in paragraph (3) of such section) held in 2000.

(2) CONSULTATION.—In conducting the study under this subsection, the Postal Service shall consult with the head of the executive department designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff), and the Secretaries of Defense, Transportation, Commerce, and Health and Human Services.

(b) UNPOSTMARKED BALLOTS.—In conducting the study under subsection (a), if the Postal Service finds that a reason for which an absentee ballot was not counted is that the ballot was not postmarked, then the Postal Service shall—

(1) determine the reason that the ballot was not postmarked; and

(2) develop recommendations on ways to ensure that such ballots will be postmarked in the future.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Postal Service shall submit to Congress a report on the study conducted under subsection (a) that contains—

(1) any reason determined under paragraph (1) of subsection (b) and any recommendations developed under paragraph (2) of such subsection; and

(2) such recommendations for legislative or administrative action as the Postal Service determines appropriate.

Mrs. FEINSTEIN (for herself and Mr. VOINOVICH):

S. 123. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

HEAD START TEACHERS ACT OF 2001

Mrs. FEINSTEIN. Mr. President: I rise today with my colleague from Ohio, Senator VOINOVICH, to introduce legislation to expand the federal loan forgiveness program to include Head Start teachers.

Head Start is one of the most important federal programs because it has the potential to reach children early in their formative years when their cognitive skills are just developing. We know that poor children disproportionately start school behind their peers—they are less likely to count to 10 or to recite the alphabet.

Providing low-income children with access to programs that encourage cognitive learning and prepare them to enter school ready to learn is important. Head Start is one example of a Federal program that has the potential to reach every low-income child; to help every eligible child learn to count to ten and begin to recite the alphabet.

Many of our Nation's youngsters, however, enter elementary school without the basic skills necessary to succeed. Often these children lag behind their peers throughout their academic career.

As taxpayers, we will spend millions on efforts to help these children catch up. Many of these children will never catch up.

Several studies confirm the importance of providing low-income children with the opportunity early on to gain basic cognitive skills:

A study conducted on a preschool program in Chicago showed that for every dollar invested, $8 was saved by society in projected costs. Additionally, 26 percent more children were likely to finish high school and 40 percent were less likely to repeat a grade.

The National Head Start Association found that for every dollar invested in Head Start, at least $2.50 is saved because these children need less remedial education and are less likely to be on welfare programs or involved with the juvenile justice system than non-Head Start peers.

The Rand Corporation found that for every dollar invested in early childhood learning programs, taxpayers save between $4 and $7 later by reducing the need for alcohol and drug treatment programs, special education programs, mental health services, and the likelihood of incarceration.

We can save millions by providing low-income children with access to quality preschool where they will gain the necessary cognitive skills to succeed in school and life.

In order to give every child a head start in life, we must continue to recruit qualified teachers to the Head Start field who have demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of the preschool curriculum with a particular focus on cognitive learning. Obtaining and maintaining teachers with such qualifications is the only way to jump-start cognitive learning and to ensure that our youngsters start elementary school ready to learn.

Several recent studies confirm the importance of investing in the education and training of those who work with preschoolers.

A study conducted by the National Research Council at the request of the U.S. Department of Education recommends that:

Each group of children in an early childhood education and care program should be assigned a teacher who has a bachelor's degree with specialized education related to early childhood. . . . Progress toward a high-quality teaching force will require substantial public and private support and incentive programs, including innovative education programs, scholarship and loan programs, and compensation commensurate with the expectations of college graduates.

The Head Start 2010 National Advisory Panel presided over fifteen national hearings and open forums. The panel found:

There was a tremendous amount of testimony about the fact that, despite increases resulting from Federal quality set-aside funding, relatively low salaries and poor or non-existent benefits make it difficult to attract and retain qualified staff over the long term. Witnesses stated that many staff positions remain vacant and turnover is likely to worsen if compensation does not improve significantly . . . comments included passionate exhortations for greater investment in staff, observing that, in Head Start . . . the quality of the program is tied directly to the quality of the staff.

Many Head Start programs are losing qualified teachers to local school districts because the pay is better, and working in an elementary or secondary school assists these teachers in qualifying to receive up to $5,000 of their federal loans forgiven. Every teacher Head Start loses impacts access to services for our nation's most vulnerable youngsters.

I believe that leveling the playing field by offering Head Start teachers the same loan forgiveness benefit currently afforded to elementary and secondary school teachers could encourage more college graduates to enter the field.

Following the recommendations of the Head Start 2010 National Advisory Panel and the National Research Council, I believe we must create programs to encourage highly educated and trained individuals to commit to long-term careers in the Head Start arena.

To encourage recent graduates, current Head Start teachers without a degree, and college students to enter and remain in the Head Start field, I am introducing legislation that will expand the federal loan forgiveness program to include Head Start teachers. In exchange for 5 years of service, a Head Start teacher could receive up to $5,000 of their federal Stafford loan forgiven.

I believe we must continue to improve the Head Start program such that children leave the program able to count to ten, to recognize sizes and colors, and can begin to recite the alphabet, to name a few indicators of cognitive learning. To ensure cognitive learning, we must also continue to raise the standards for Head Start teachers. Offering Head Start teachers similar compensation for their educational achievements and expenses afforded to other teachers should be a priority of this Congress.

Mr. President, I ask unanimous consent that the text of the bill now appear in the RECORD.

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

S. 123

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

SECTION 1. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the ''Loan Forgiveness for Head Start Teachers Act of 2001''.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C 1078–10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

''(1)(A) has been employed—

''(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(2) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(3) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A).''.

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078–10) is amended—

(1) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(2) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)'';

(3) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)''; and

(4) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

Mr. VOINOVICH. Mr. President, I rise today to join my friend and colleague, Senator FEINSTEIN, in introducing legislation which will encourage young teachers to go into early childhood education, encourage further learning and credentialing of early learning educators, and lead to better education for our nation's youngest children.

There is no more important time in a child's life than their earliest years. Scientific research tells us that babies are born with 100 billion neurons, or brain cells, that are waiting to make connections, or synapses, with one another. These synapses empower the brain and dictate healthy development and future learning. By the time a baby is three, 1,000 trillion connections have been made—twice as many synapses as most adults have.

However, at age 11, children start eliminating those brain connections that have not been used, thus decreasing their potential for learning and development.

To maximize their learning potential, we must begin to teach our children the necessary skills before they reach kindergarten. Researchers have found that focusing on these earliest years can make the greatest difference in a child's development and learning, and I know of few other programs that provide the same focus as Head Start.

Our bill, the Loan Forgiveness for Head Start Teachers Act of 2001, is designed to encourage currently enrolled and incoming college students working on a Bachelor's or a Master's degree to pursue a career as a Head Start teacher. In exchange for a 5-year teaching commitment in a qualified Head Start program, a college graduate with a minimum of a bachelor's degree could receive up to $5,000 in forgiveness for their federal Stafford student loan.

When I was Governor of Ohio, we invested heavily in Head Start so that there was room for every eligible child in Ohio. Because of our efforts, Ohio is 4th in the nation in terms of children served by Head Start with nearly 38,000 students served in the year 2000.

I have carried my passion for early childhood education with me to the U.S. Senate. I continue to believe that it is absolutely critical that we do more to help our young people prepare to begin school and it is why I was pleased to work with Senators JEFFORDS and STEVENS to help pass the Early Learning Opportunities Act of 2000. Still, we must now do more to help those teachers who educate our youngest children.

The results of a survey undertaken by the U.S. Department of Health and Human Services over the past two years has shown a significant correlation between the quality of education a child receives and the amount of education that child's teacher possesses. That is, the more education a teacher has, the more effectively they teach their students cognitive skills, and the more likely that students are to act upon those skills.

Current federal law requires that 50 percent of all Head Start teachers must

have an associate, bachelor's, or advanced degree in early childhood education or a related field with teaching experience by 2003. Under Ohio law, by 2007, all Head Start teachers must have at least an associates degree. The more education our teachers have, the better off our children will be. Unfortunately, as we all know, education is expensive.

In Ohio today, only 11.3 percent (242) of the 2,126 Head Start teachers employed in the state have a bachelor's degree. Additionally, less than one percent (20) of Ohio's Head Start teachers have a graduate degree. We must do more to help our teachers afford the education that will be used to help educate our children.

Recruiting and retaining Head Start and early childhood teachers continues to be a challenge for Ohio and other states. The Loan Forgiveness for Head Start Teachers Act of 2001 will help communities, schools and other funded Head Start providers to meet the challenge of recruiting and retaining high quality teachers. It is one of the best ways that I know of where we can make a real difference in the lives of our most precious resource—our children.

I am pleased to have been able to work with the National Head Start Association and Ohio Head Start Association, and my colleague Senator FEINSTEIN, on this legislation, and I urge my colleagues to join as co-sponsors of this bill.

By Mr. JOHNSON (for himself, Mr. KENNEDY, Mr. DORGAN, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEAHY, Mr. INOUYE, Mr. KERRY, and Mr. DASCHLE):

S. 125. A bill to provide substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the ''Prescription Drug Fairness for Seniors Act of 2001'', legislation that addresses the critical issue facing our older Americans—the cost of their prescription drugs. Studies have shown that older Americans spend almost three times as much of their income on health care than those under the age of 65, and more than three-quarters of Americans aged 65 and over are taking prescription drugs. Even more alarming is the fact that seniors and others who buy their own prescription drugs, are forced to pay over twice as much for their drugs as are the drug manufactures' most favored customers, such as the federal government and large HMOs.

The ''Prescription Drug Fairness for Seniors Act'' will protect senior citizens and disabled individuals from drug price discrimination and make prescription drugs available to Medicare beneficiaries at substantially reduced prices. The legislation achieves these goals by allowing pharmacies that serve Medicare beneficiaries to purchase prescription drugs at prices equal to those of the pharmaceutical companies' most favored customers. Estimated to reduce prescription drug prices for seniors by over 40%, this bill will help those seniors who often times have to make devastating choices between buying food or medications. Choices that no human being should have to make.

Research and development of new drug therapies is an important and necessary tool towards improving a person's quality of life. But due to the high price tag that often accompanies the latest drug therapies, seniors are often left without access to these new therapies, and ultimately, in far too many instances, without access to medication at all. This legislation is an important step towards restoring the access to affordable medications for our Medicare beneficiaries.

While this may not be the magic bullet that meets all of the long term needs of providing Medicare prescription drug coverage, it does provide a mechanism for immediate relief from rising drug costs. Working together, reaching across the aisle, we can use this time of unparalleled prosperity to do the right thing by our seniors. We should do it this year for their sake, and for the sake of the future of Medicare.

I look forward to working on this important issue in the months to come and hope that Congress will work swiftly in a bipartisan manner to enact legislation that will benefit millions of senior citizens and disabled individuals across our nation.

By Mr. CLELAND (for himself, Mr. MILLER, Mr. INOUYE, Mr. TORRICELLI, Mr. BINGAMAN, and Mr. HARKIN):

S. 126. A bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

AUTHORIZING THE PRESIDENT TO PRESENT THE GOLD MEDAL ON BEHALF OF CONGRESS TO FORMER PRESIDENT JIMMY CARTER AND FORMER FIRST LADY ROSALYNN CARTER

Mr. CLELAND. Mr. President, I rise today to introduce a bill that would authorize the President to present a Gold Medal on behalf of Congress to former President Jimmy Carter and former First Lady Rosalynn Carter in recognition of their service to the Nation. I would like to thank Senators MILLER, INOUYE, TORRICELLI, BINGAMAN and HARKIN for co-sponsoring this bill and extend an invitation to all our other colleagues to join us in supporting this legislation to award these two great Americans with Congress' highest honor.

It is widely agreed that President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and the international community. Internationally, the Carters have been involved in a number of public service initiatives ranging from combating famine in Sub-Sahara Africa and encouraging better health care in Third World nations to serving as mediators in an effort to end civil wars in half a dozen countries. President Carter has monitored numerous foreign elections in an effort to spread democracy throughout the world.

A Congressional Gold Medal awarded by Congress will show the appreciation of the American public for the many contributions that President and Mrs. Carter have made, including service in public office from the state legislature to the White House. Jimmy and Rosalynn continue to promote human rights worldwide due to their active involvement in the nonprofit Carter Center in Atlanta that has initiated projects in more than 65 countries to resolve conflicts, promote human rights, build democracy, improve health care worldwide, and revitalize urban areas. In addition, the Carters serve as volunteers for Habitat for Humanity, which helps low income families build their own homes.

I hope that other members of Congress will join me and Senators MILLER, INOUYE, TORRICELLI, BINGAMAN, and HARKIN in recognizing President and Mrs. Carter for their distinguished records of public service by awarding them the Congressional Gold Medal. Thank you, Mr. President.

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. 126

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) both former President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and to the international community;

(2) the peacemaking efforts of President Jimmy Carter as a mediator in the Arab-Israeli dispute culminated in the Camp David Accords signed by Egypt and Israel, which provided the foundation for a settlement of the Middle East dispute that had eluded peacemakers for more than 3 decades;

(3) President Jimmy Carter was instrumental in the passage of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), one of the most significant pieces of environmental legislation ever approved by Congress;

(4) in establishing his presidential library, President Jimmy Carter sought to create a center for the service of humanity in areas as diverse as politics, health care, human rights, and democracy;

(5) Jimmy and Rosalynn Carter epitomize the American quality of voluntarism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

(6) together, Jimmy and Rosalynn Carter have dedicated their lives to promoting national pride and to bettering the quality of

life in the United States and throughout the world.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present at the Capitol, on behalf of the Congress, a gold medal of appropriate design to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) SUBSEQUENT ARRANGEMENTS FOR PRESENTATION.—Subsection (a) shall not be construed as providing the consent of the House of Representatives or the Senate for the use of any particular part of the Capitol or the grounds of the Capitol for purposes of the presentation referred to in subsection (a).

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 at a price sufficient to cover the costs of the medals (including labor, materials, dies, use of machinery, and overhead expenses) and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING AND PROCEEDS OF SALE.

(a) AUTHORIZATION.—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Mr. MCCAIN (for himself, Mr. CLELAND, Mrs. HUTCHISON, and Mr. MURKOWSKI):

S. 127. A bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

THE UNITED STATES SHIP CRUISE VESSEL ACT

Mr. MCCAIN. Mr. President, today Senators HUTCHISON, CLELAND, MURKOWSKI, and I are introducing the United States Cruise Vessel Act. The purpose of this bill is to provide increased domestic cruise opportunities for the American cruising public by temporarily reducing barriers to operation in the domestic cruise market. I want to start by thanking Senators HUTCHISON, CLELAND, and MURKOWSKI for once again joining me in an effort to rebuild our nation's cruise ship industry.

While we made great progress in advancing our goals during the last Congress, our efforts were blocked by the special interests of a small group of shipbuilders who prefer the status quo that allows them to dominate the small market for large U.S.-built cruise ships without the fear of competition. The bill that we are introducing today was passed out of the Senate Commerce Committee unanimously during the last Congress. It represents months, if not years, of work by a large cross section of our nation's maritime industry to reach agreement on how best to jump-start our nation's fleet of U.S. flagged cruise vessels and provide them the tools they need to compete in the world market.

The measure we are introducing today would allow for the immediate expansion of the domestic fleet by allowing operators to bring existing cruise ships under the U.S. flag as long as they agree to build additional vessels in the United States. The measure would also provide increased opportunities for U.S. mariners to serve at sea. This becomes more critical annually, as we face greater difficulties in meeting our national defense sealift need for qualified merchant mariners. We need to provide more opportunities for U.S. merchant mariners to serve at sea and this measure can lead to those opportunities. Finally, the measure would lead to increased work for our nation's shipyards and build on the limited construction plans for large cruise ships currently underway.

I want to highlight some of the major provisions of the bill in order to ensure that the legislation we are introducing today is not confused with previous measures that allowed for the operation of foreign flagged vessels in the U.S. domestic market. The bill we are introducing today provides a two-year window of opportunity to encourage the immediate reflagging of large cruise vessels under the United States flag for operation in the domestic cruise trades. The bill would allow the Secretary of Transportation to issue permits for the limited operation of foreign-built cruise vessels in the domestic trades if applications are received within two years of the date of enactment of this legislation.

To be eligible for reflagging and operation in the U.S. domestic cruise trades, a cruise vessel must have been delivered after January 1, 1980, and be at least 20,000 gross registered tons, have no fewer than 800 passenger berths, provide a full range of overnight accommodations, dining, and entertainment services, comply with the Safety of Life at Sea requirements for a fixed smoke detection and sprinkler system in the accommodation areas, and be constructed according to internationally accepted construction standards. This will help ensure that any foreign flag vessels reflagged to take advantage of the bill are modern and safe.

To be eligible to enter the domestic market, the vessel must be owned by a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. 802) or section 12106(e) of title 46 United States Code.

The bill would assist the U.S. ship repair industry and would require foreign built cruise vessels entering the domestic market to have all repair, maintenance, alteration and other work required for operation under the U.S. flag, as well as regular repair and maintenance work, performed in a U.S. shipyard.

Prior to allowing a foreign built vessel to be reflagged and utilized in the domestic market, the bill would require the operator of a reflagged vessel to enter into a binding contract with U.S. shipyards for the construction of at least one more vessel than the total number of vessels they will operate in the domestic cruise market. The contract must provide for a total number of passenger berths equal to or greater than the number operated in the domestic market by that operator. Additionally, the replacement vessels must be at least 20,000 gross registered tons and have no fewer than 800 passenger berths.

The bill would require the first replacement vessel to be delivered within five years of the date the foreign-built vessel commences operation in the domestic trade and that each additional vessel be delivered within two years of the preceding vessel. Foreign built vessels are required to leave the domestic market two years after the replacement vessel or vessels are delivered.

The bill would require the Secretary to Transportation to insure that the coastwise business of a U.S. built vessel operator is not harmed by the operation of a foreign-built vessel in the domestic market. The Secretary, after reviewing the proposed itineraries of foreign-built vessels in the domestic market, as well as taking into consideration public comments, is required to determine if there will be an adverse impact on the operation of a U.S.-built vessel. The Secretary is required to consider the scope of the vessel's itineraries, the duration of the cruise, the size of the vessel and the retail per diem of the vessel. If there is a conflict, the operator of a foreign-built vessel must change the vessel's itinerary in order to remove the conflict to the satisfaction of the Secretary.

The slow and limited growth of the U.S. domestic cruise market demands that we put aside special interests and pass this measure at the first available opportunity. I can assure my colleagues that as Chairman, the Senate Committee will continue to work with all members interested in the future of a U.S. flagged cruise fleet to further address any concerns with the bill. But I would also ask all members to compare the limited growth of our domestic fleet to the dynamic growth in the international cruise market in hopes that they will realize that without actions soon, the U.S. fleet will be left behind.

The bill we are introducing today will stimulate growth and opportunity within the domestic cruise ship trade with the beneficiaries being U.S. port cities and business, and as I have often said, the millions of American citizens who want to be able to enjoy cruising between U.S. ports.

I hope my colleagues will join Senators HUTCHISON, CLELAND, MURKOWSKI,

and me to help advance this legislation.

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

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

S. 127

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 SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''United States Cruise Vessel Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE CRUISE VESSEL.—The term ''eligible cruise vessel'' means a cruise vessel that—

(A) was delivered after January 1, 1980;

(B) is at least 20,000 gross registered tons;

(C) has no fewer than 800 passenger berths;

(D) is owned by a person that is a citizen of the United States for the purpose of operating a vessel in the coastwise trade within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) or section 12106(e) of title 46, United States Code;

(E) provides a full range of overnight accommodations, entertainment, dining, and other services for its passengers;

(F) has a fixed smoke detection and sprinkler system installed throughout the accommodation and service spaces, or will have such a system installed within the time period required by the 1992 Amendments to the Safety of Life at Sea Convention of 1974; and

(G) meets the eligibility requirements for a certificate of inspection under section 1137(a) of the Coast Guard Authorization Act of 1996 (46 U.S.C. App. 1187 nt.), and complies with the applicable international agreements and associated guidelines referred to in section 1137(a)(2) of that Act (46 U.S.C. 1187 nt.).

(2) ITINERARY.—The term ''itinerary'' means the route travelled by a cruise vessel on a single voyage that begins at the first port at which passengers on that voyage embark, includes each port at which the vessel calls before the last port at which passengers on that voyage disembark, and ends at that last port of disembarkation. For purposes of this paragraph, the term ''embark'' and ''disembark'' have the meaning given those terms in section 4.80a(a)(4) of title 19, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act).

(3) OPERATOR.—The term ''operator'' means the owner, operator, or charterer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(5) UNITED STATES SHIPYARD.—The term ''United States shipyard'' means a shipyard located in the United States.

(6) UNITED STATES.—The term ''United States'' has the meaning given that term in section 2101(44) of title 46, United States Code.

TITLE I—OPERATIONS UNDER CERTIFICATE OF DOCUMENTATION

SEC. 101. DOMESTIC CRUISE VESSEL.

(a) IN GENERAL.—Notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), section 27 of the Act of June 5, 1920, commonly known as the Jones Act, (46 U.S.C. App. 883), section 27A of that Act, (46 U.S.C. App. 883-1), and section 12106 of title 46, United States Code, the Secretary shall issue a certificate of documentation with a temporary coastwise endorsement for an eligible cruise vessel not built in the United States to operate in domestic itineraries in the transportation of passengers in the coastwise trade between ports in the United States if the vessel meets the requirements of this title.

(b) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a certificate of documentation under subsection (a) begins on the day after the date of enactment of this Act and terminates on the day that is 24 months after that date.

(c) APPLICATION ONLY REQUIRED.—Notwithstanding subsection (b), the Secretary may issue a certificate of documentation under subsection (a) more than 24 months after the date of enactment of this Act if—

(1) the Secretary received the application for the certificate of documentation before the end of that 24-month period; and

(2) the vessel otherwise meets the requirements of this title.

(d) RIGHTS UNDER APPLICATION NOT TRANSFERRABLE.—The right to receive a certification of documentation pursuant to an application described in subsection (c) may not be transferred by the applicant to any other person. For purposes of this subsection, the transfer of that right to a successor in interest to the applicant in connection with the reorganization, restructuring, acquisition, or sale of the applicant's business shall not be considered another person.

SEC. 102. REPAIRS REQUIREMENT.

(a) IN GENERAL.—The Secretary may not issue a certificate of documentation under section 101(a) for an eligible cruise vessel unless the operator establishes to the satisfaction of the Secretary that—

(1) any repair, maintenance, alteration, or other preparation of the vessel for operation under a certificate of documentation issued under section 101(a) have been, or will be, performed in a United States shipyard; and

(2) any repair, maintenance, or alteration of the vessel after a certificate of documentation is issued under that section will be performed in a United States shipyard.

(b) WAIVER.—The Secretary may waive the requirements of subsection (a) if the Secretary finds that the repair, maintenance, alterations, or other preparation services are not available in the United States or if an emergency dictates that the vessel proceed to a foreign port.

SEC. 103. CONSTRUCTION REQUIREMENT.

(a) CONSTRUCTION CONTRACT REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), a vessel for which a certificate of documentation has been issued under section 101(a) may not commence operations in the coastwise trade until the operator of that vessel executes a contract with one or more United States shipyards for the construction of a total of 2 or more cruise vessels with a total combined berth or stateroom capacity equal to at least the total combined berth or stateroom capacity of that vessel. If certificates of documentation are issued under section 101(a) for more than 1 vessel for an operator, the construction contract required by the preceding sentence shall provide for the construction of 1 more vessel than the number of vessels for which certificates of documentation are issued with a total combined berth or stateroom capacity equal to at least the total combined berth or stateroom capacity of the vessels for which the certificates of documentation are issued.

(2) DEMONSTRATION OF CAPABILITY REQUIRED.—For purposes of this subsection, a construction contract for which financing is not provided under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 et seq.) shall not be recognized as meeting the requirements of paragraph (1) unless both the operator and the shipyard are capable of completing the contract. For purposes of this paragraph—

(A) an operator shall be considered to be capable of completing such a contract if the operator meets the standards set forth in sections 298.12, 298.13, and 298.14 of title 46, Code of Federal Regulations; and

(B) a shipyard shall be considered to be capable of completing such a contract if the shipyard meets the standards set forth in section 298.32(a) of that title.

(b) MINIMUM SIZE REQUIREMENT.—For purposes of this section, a contract for the construction of a vessel shall be disregarded if that vessel—

(1) will be less than 20,000 gross registered tons; or

(2) will have fewer than 800 passenger berths.

(c) CONTRACT TERMS.—

(1) IN GENERAL.—The contract required by subsection (a) shall provide for delivery of the first such vessel not later than 60 months after the date on which operations of the vessel for which the certificate of documentation was issued commence, and shall contain any other provisions required by the Secretary for purposes of this subsection. If the contract provides for the construction of more than 1 vessel, it shall provide for delivery of each vessel subsequent to the first not later than 24 months after delivery of the immediately preceding vessel.

(2) EXTENSION OF TIME PERIODS FOR IMPOSSIBILITY OF PERFORMANCE.—If the commencement of construction or the completion of construction is prevented or delayed by circumstances that would be recognized as providing a defense of impossibility-of-performance by the shipyard under applicable contract law, each time period in this Act related to delivery of a vessel by that shipyard shall be extended for whatever period of time the circumstance on which the defense is predicated continues to exist.

(d) EXPIRATION OF COASTWISE ENDORSEMENT.—The coastwise endorsement for an eligible cruise vessel under section 101(a) shall expire 24 months after the delivery date for the replacement vessel or vessels for that eligible cruise vessel. For purposes of this subsection, the term ''replacement vessel or vessels'' means 1 or more vessels the operator of the eligible cruise vessel is obligated to construct in the United States under the contract described in subsection (a) with respect to the eligible cruise vessel that have at least the same number of passenger berths as the eligible cruise vessel, or they, replace.

(e) REFLAGGING UNDER FOREIGN REGISTRY.—Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), the operator of an eligible cruise vessel issued a certificate of documentation with a temporary coastwise endorsement under section 101(a), or a cruise vessel constructed under a contract described in subsection (a) of this section, may place that vessel under foreign registry.

SEC. 104. CERTAIN OPERATIONS PROHIBITED.

Neither an eligible cruise vessel operating in domestic itineraries under a certificate of

documentation issued under section 101(a) nor a vessel constructed under a contract described in section 103(a) may—

(1) operate as a ferry;

(2) regularly carry for hire both passengers and vehicles or other cargo; or

(3) operate between or among the islands of Hawaii.

SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.

(a) NOTIFICATION OF SECRETARY.—

(1) NEW VESSELS.—Any person eligible under section 12102 of title 46, United States Code, to document a vessel under chapter 121 of that title that enters into a contract with a United States shipyard for the construction of a cruise vessel that—

(A) will be at least 20,000 gross registered tons,

(B) will have no fewer than 800 passenger berths, and

(C) is otherwise eligible for a certificate of documentation and a coastwise trade endorsement,

shall notify the Secretary, at such time and in such manner and form as the Secretary may require, of the construction of that vessel not less than 2 full calendar years before the earliest date on which the vessel is intended to commence operations.

(2) RECONSTRUCTION.—The notification requirement of paragraph (1) also applies to any such person that enters into a contract with a United States shipyard for the reconstruction of any vessel, including a vessel that has a certificate of documentation under chapter 121 of title 46, United States Code, will, after reconstruction, will be that size and capacity and be eligible for such an endorsement.

(b) PRIORITY TO U.S.-BUILT VESSELS.—The Secretary shall give priority to any cruise vessel described in subsection (a) over any other cruise vessel of comparable operations in a comparable market under a certificate of documentation issued under section 101(a) if the Secretary, after notice and an opportunity for public comment, determines that the employment in the coastwise trade of the vessel issued a certificate of documentation under section 101(a) will adversely affect the coastwise trade business of any person operating a vessel not documented under section 101(a) in the coastwise trade.

(c) FACTORS CONSIDERED.—In determining and assigning priorities, the Secretary shall consider, among other factors determined by the Secretary to be appropriate—

(A) the scope of a vessel's itinerary, including—

(i) the ports between which it operates; and

(ii) the duration of the cruise;

(B) the time frame within which the vessel will serve a particular itinerary;

(C) the size of the vessel; and

(D) the retail per diem of the vessel.

(d) IMPLEMENTATION.—

(1) INTINERARY SUBMISSION REQUIRED.—The Secretary shall require the operator of each vessel issued a certificate of documentation under section 101(a) to submit, in April of each year, a proposed itinerary for that vessel for cruise itineraries for the calendar year beginning 20 months after the date on which the itinerary is required to be submitted.

(2) PUBLICATION AND COMMENT.—

(A) PUBLICATION.—The Secretary shall cause any itinerary submitted under paragraph (1), and any late submission or revision submitted under paragraph (3), to be published in the Federal Register.

(B) COMMENT PERIOD.—The Secretary shall receive and consider comments from the public on any itinerary published under subparagraph (A) for a period of 30 days after the date on which the itinerary is published.

(3) REVISIONS AND LATER SUBMISSIONS.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C)(iii) and before the start date of a requested itinerary.

(4) SCHEDULING.—

(A) ACTION BY SECRETARY.—Within 30 days after the close of the comment period on an itinerary published under paragraph (2)(A), the Secretary shall—

(i) review the itineraries submitted to the Secretary for compliance with the priorities established by this section;

(ii) advise affected cruise vessel operators of any specific itinerary that is not available and the reason it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) OPERATORS' APPEALS.—The operator of any eligible cruise vessel may appeal the Secretary's decision under subparagraph (A)(ii) within 30 days after the Secretary advises the operator of the decision.

(C) RESOLUTION OF CONFLICTS.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise vessel operators who responded under subparagraph (B) of the Secretary's decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

SEC. 106. REPORT.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentations granted under section 101(a), and on the progress of construction on vessels to replace those vessels under section 103.

SEC. 107. ENFORCEMENT.

(a) BREACH OF CONSTRUCTION CONTRACT BY OPERATOR.—The Secretary shall revoke a temporary coastwise endorsement issued under section 101(a)(2) for a vessel if the operator of that vessel commits a serious breach of the construction contract required by section 103(a). The revocation shall take effect at the conclusion of the last voyage on the last cruise itinerary approved by the Secretary before the Secretary made the determination to revoke the endorsement.

(b) BREACH OF CONSTRUCTION CONTRACT BY SHIPYARD.—

(1) IN GENERAL.—If a shipyard commits a serious breach of a construction contract required by section 103(a) with an operator of a vessel for which a certificate of documentation granted under section 101(a)—

(A) the operator shall notify the Secretary immediately of the breach; and

(B) the operator may continue to operate that vessel as if the contract were in effect for a period of 24 months after notification of the Secretary on the condition that the operator will make good faith efforts during that 24-month period to execute a contract with a United States shipyard for the construction of the vessels that were to have been constructed under that contract.

(2) GOOD FAITH EFFORT REQUIRED.—If the Secretary determines at any time during that 24-month period that the operator has ceased to make good faith efforts to execute such a contract, then the Secretary shall immediately terminate the operator's authority to continue operations under this paragraph.

(c) SUBSTANTIAL BREACHES ONLY.—For purposes of subsections (a) and (b), the term ''serious breach of contract'' means a breach of contract for which an appropriate remedy under section 2-703 or 2-711 of the Uniform Commercial Code, as promulgated by the National Conference of Commissioners on Uniform State Law, is cancellation by the seller or buyer, respectively.

TITLE II—OTHER PROVISIONS

SEC. 201. APPLICATION WITH JONES ACT AND OTHER ACTS.

(a) IN GENERAL.—Nothing in this Act affects or otherwise modifies the authority contained in—

(1) Public Law 87-77 (46 U.S.C. App. 289b) authorizing the transportation of passengers and merchandise in Canadian vessels between ports in Alaska and the United States; or

(2) Public Law 98-563 (46 U.S.C. App. 289c) permitting the transportation of passengers between Puerto Rico and other United States ports.

(3) Section 27A of the Act of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1).

(4) Section 8109 of the Department of Defense Appropriations Act, 1998.

(b) JONES ACT.—Except as in section 101(a), nothing in this Act affects or modifies the Merchant Marine Act, 1920 (46 U.S.C. App. 861 et seq.).

SEC. 202. GLACIER BAY AND OTHER NATIONAL PARK SERVICE AREA PERMITS.

(a) IN GENERAL.—The Secretary of the Interior, after consultation with the Secretary of Transportation, shall issue new or otherwise available permits to United States-flag vessels carrying passengers for hire to enter Glacier Bay or any other area within the jurisdiction of the National Park Service. Any such permit shall not affect the rights of any person that, on the date of enactment of this Act, holds a valid permit to enter Glacier Bay or such other area.

(b) NEW PERMITS NOT AUTHORIZED.—Subsection (a) does not authorize the Secretary of the Interior to issue new permits, but, if new permits are authorized under any other provision of law, they shall be awarded in accordance with subsection (a).

By Mr. CLELAND:

S. 129. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as ''Gold Star Parents'') of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

GOLD STAR PARENTS ANNUITY ACT

Mr. CLELAND. Mr. President, I rise today to introduce the Gold Star Parents Annuity Act. The use of the Gold Star to denote the death of a service member or members in a family was started during World War I by President Woodrow Wilson. The idea behind the Gold Star was that it could symbolize the family's devotion and pride in the ultimate sacrifice for their country made by their family member instead of the sense of personal loss that is represented by the traditional mourning symbols.

The Gold Star Parents Annuity Act provides for an annuity of $125 a month payable to each individual who has received a Gold Star Lapel pin, which is awarded to parents who have had a child die honorably in service to our country. Payments are to be divided equally among parents when there is more than one surviving parent. The receipt of this pension will not deprive anyone of the right to any other pensions, benefit, right or privilege that

they are entitled to under any existing or future law. Furthermore, these special pension payments will not be subject to any attachment, execution, levy, tax lien or detention under any process. I believe this measure would provide a needed increase in income for many parents who have lost children in service to our country.

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. 129

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 ''Gold Star Parents Annuity Act''.

SEC. 2. SPECIAL PENSION FOR GOLD STAR PARENTS.

(a) IN GENERAL.—(1) Chapter 15 of title 38, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

''§ 1571. Gold Star parents

''(a) The Secretary shall pay monthly to each person who has received a Gold Star lapel button under section 1126 of title 10 as a parent of a person who died in a manner described in subsection (a) of that section a special pension in an amount determined under subsection (b).

''(b) The amount of special pension payable under this section with respect to the death of any person shall be $125 per month. In any case in which there is more than one parent eligible for special pension under this section with respect to the death of a person, the Secretary shall divide the payment equally among those eligible parents.

''(c) The receipt of special pension under this section shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension under this section shall be paid in addition to all other payments under laws of the United States.

''(d) Special pension under this section shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

''(e) For purposes of this section, the term 'parent' has the meaning provided in section 1126(d)(2) of title 10.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

''1571. Gold Star parents.''.

(b) EFFECTIVE DATE.—Section 1571 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2001.

By Mr. JOHNSON (for himself and Ms. COLLINS):

S. 131. A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' HIGHER EDUCATION OPPORTUNITIES ACT

Mr. JOHNSON. Mr. President, I am pleased today to join Senator SUSAN COLLINS (R–ME) in introducing the Veterans' Higher Education Opportunities Act. Last year, Senator COLLINS and I introduced similar legislation, S. 2419, that received broad, bipartisan support in Congress and among the veterans and higher education communities. Our goal with this year's legislation remains the same: to modernize the Montgomery GI Bill and help veterans achieve their goals of higher education.

The 1944 GI Bill of Rights is one of the most important pieces of legislation ever passed by Congress. No program has been more successful in increasing educational opportunities for our country's veterans while also providing a valuable incentive for the best and brightest to make a career out of military service. This bill has allowed eight million veterans to finish high school and 2.3 million service members to attend college.

Unfortunately, the current GI Bill can no longer deliver these results and fails in its promise to veterans, new recruits and the men and women of the armed services. The Veterans' Higher Education Opportunities Act will modernize the GI Bill and ensure its viability as education costs continue to increase.

Over 96 percent of recruits currently sign up for the Montgomery GI Bill and pay $1,200 out of their first year's pay to guarantee eligibility. But only one-half of these military personnel use any of the current Montgomery GI Bill benefits. This is evidence that the current GI Bill simply does not meet their needs. The main reason why military personnel no longer use the GI Bill is because GI Bill benefits have not kept pace with increased costs of education.

There is consensus among national higher education and veterans associations that at a minimum, the GI Bill should pay the costs of attending the average four-year public institution as a commuter student. The current Montgomery GI Bill benefit pays a little more than half of that cost.

The Veterans' Higher Education Opportunities Act creates that benchmark by indexing the GI Bill to the costs of attending the average four-year public institution as a commuter student. This benchmark cost will be updated annually by the College Board in order for the GI Bill to keep pace with increasing costs of education.

The Veterans' Higher Education Opportunities Act is truly a bipartisan effort to address recruitment and retention in the armed forces. In addition, the Veterans' Higher Education Opportunities Act has the overwhelming support of the Partnership for Veterans' Education—a coalition of the nation's leading veterans groups and higher education organizations including the VFW, the American Council on Education, the Non Commissioned Officers Association, the National Association of State Universities and Land Grant Colleges, and The Retired Officers Association.

As the parent of a son who serves in the Army, these military ''quality of life'' issues are of particular concern to me. Making the GI Bill pay for viable educational opportunity makes as much sense today as it did following World War II. In fact, a study conducted on beneficiaries of the original GI Bill shows that the cost to benefit ratio of the GI Bill was an astounding 12.5 to 1. That means that our nation gained more than $12.50 in benefits for every dollar invested in college or graduate education for veterans.

Congress and the President took an important step last year toward improving the Montgomery GI Bill by passing into law the Veterans Benefits and Health Care Improvement Act of 2000. This law increases the monthly education benefit to $650 and increases educational benefits of veterans survivors and dependents. These changes are long overdue, and the next step in restoring the effectiveness of the Montgomery GI Bill is through the Veterans' Higher Education Opportunities Act and the creation of a true benchmark for veterans educational benefits.

The very modest cost of improving the GI Bill will help our military and our society. I look forward to working with incoming Veterans Administration Secretary Anthony Principi, Senator COLLINS and my colleagues in the Senate, and interested members of the House of Representatives on passage of the Veterans' Higher Education Opportunities Act.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 131

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Higher Education Opportunities Act of 2001''.

SEC. 2. MODIFICATION OF ANNUAL DETERMINATION OF BASIC BENEFIT OF ACTIVE DUTY EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) BASIC BENEFIT.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking ''of $650 (as increased from time to time under subsection (h))'' and inserting ''equal to the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))''; and

(2) in subsection (b)(1) by striking ''of $528 (as increased from time to time under subsection (h))'' and inserting ''equal to 75 percent of the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))''.

(b) DETERMINATION OF AVERAGE MONTHLY COSTS.—Subsection (h) of that section is amended to read as follows:

''(h)(1) Not later than September 30 each year, the Secretary shall determine the average monthly costs of tuition and expenses for commuter students at public institutions

of higher education that award baccalaureate degrees for purposes of subsections (a)(1) and (b)(1) for the succeeding fiscal year. The Secretary shall determine such costs utilizing information obtained from the College Board or information provided annually by the College Board in its annual survey of institutions of higher education.

''(2) In determining the costs of tuition and expenses under paragraph (1), the Secretary shall take into account the following:

''(A) Tuition and fees.

''(B) The cost of books and supplies.

''(C) The cost of board.

''(D) Transportation costs.

''(E) Other nonfixed educational expenses.

''(3) A determination made under paragraph (1) in a year shall take effect on October 1 of that year and apply with respect to basic educational assistance allowances payable under this section for the fiscal year beginning in that year.

''(4) Not later than September 30 each year, the Secretary shall publish in the Federal Register the average monthly costs of tuition and expenses as determined under paragraph (1) in that year.

''(5) For purposes of this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

(c) STYLISTIC AMENDMENT.—Subsection (b) of that section is further amended in the matter preceding paragraph (1) by striking ''as provided in the succeeding subsections of this section'' and inserting ''as otherwise provided in this section''.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2001.

(2) The Secretary of Veterans Affairs shall make the determination required by subsection (h) of section 3015 of title 38, United States Code (as amended by subsection (b) of this section), and such determination shall go into effect, for fiscal year 2002.

Ms. COLLINS. Mr. President, I am delighted to join with my friend and colleague, Senator JOHNSON, in introducing the Veterans' Higher Education Opportunities Act of 2001. This legislation, which is an updated version of the measure we introduced in the 106th Congress, will provide our veterans with expanded educational opportunities at a reasonable cost. Endorsed by the Partnership for Veterans Education, a broad coalition including over 40 veterans service organizations and education associations, our legislation provides a new model for today's G.I. Bill that is logical, fair, and worthy of a nation that values both higher education and our veterans.

The original G.I. Bill was enacted in 1944. As a result of this initiative, 7.8 million World War II veterans were able to take advantage of post-service education and training opportunities, including more than 2 million veterans who went on to college. My own father was among those veterans who served bravely in World War II and then came back home to resume his education with assistance from the G.I. Bill.

Since that time, the G.I. Bill has seen a number of changes but has continued to assist millions of veterans in taking advantage of the educational opportunities they put on hold in order to serve their country. New laws were enacted to provide educational assistance to those who served in Korea and Vietnam, as well as to those who served during the period in between. Since the change to an all-volunteer service, additional adjustments to these programs were made, leading up to the enactment of the Montgomery G.I. Bill in 1985.

The Montgomery G.I. Bill has served our country well over the past 15 years. However, the value of the educational benefit assistance it provides has greatly eroded over time due to inflation and the escalating cost of higher education. Military recruiters indicate that the program's benefits no longer serve as a strong incentive to join the military; nor do they serve as a retention tool valuable enough to persuade men and women to stay in the military and defer the full or part-time pursuit of their higher education until a later date. Perhaps most important, the program is losing its value as a means to help our men and women in uniform readjust to civilian life after military service.

This point really hit home for me when I met last year with representatives of the Maine State Approving Agency (SAA) for Veterans Education Programs. They told me of the ever-increasing difficulties that service members are facing in using the G.I. Bill's benefits for education and training.

For example, the Maine representatives told me that the majority of today's veterans are married and have children. Yet, the Montgomery G.I. Bill often does not cover the cost of tuition to attend a public institution, let alone the other costs associated with the pursuit of higher education and those required to help support a family.

The basic benefit program of the Vietnam era G.I. Bill provided $493 per month in 1981 to a veteran with a spouse and two children. Before the reforms of last year, a veteran in identical circumstances received only $43 more, a mere 8% increase over a time period when inflation has nearly doubled, and a dollar buys only half of what it once purchased. In constant dollars, the amount was the second-lowest level of assistance ever extended under the G.I. Bill to those who served in the defense of our country.

While we made progress last year in increasing stipend levels under the G.I. Bill, the reforms fell drastically short of allocating sufficient funds to cover the current cost of higher education. Moreover, the increase failed to address the structural reforms needed to ensure that the G.I. Bill provides sufficient funds for the education of our nation's veterans long into the 21st Century.

To address these problems, we are offering a modern version of the Montgomery G.I. Bill. Our new model establishes a sensible, easily understood benchmark for G.I. Bill benefits. The benchmark sets G.I. Bill benefits at ''the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees.'' This common sense provision would serve as the foundation upon which future education stipends for all veterans would be based and would set benefits at a level sufficient to provide veterans the education promised to them at recruitment.

The current G.I. Bill now provides nine monthly $650 stipends per year for four years. The total benefit is $23,400. Under the new benchmark established by this legislation, the monthly stipend for this academic year would be $1025, producing a new total benefit of $36,900 for the four academic years. By using our benchmark, which is updated annually by the College Board, the G.I. Bill benefits will truly reflect the current cost of higher education.

Mr. President, today's G.I. Bill is woefully under-funded and does not provide the financial support necessary for our veterans to meet their educational goals. The legislation that we are proposing would fulfill the promise made to our nation's veterans, help with recruiting and retention of men and women in our military, and reflect current costs of higher education. Now is the time to enact these modest improvements to the basic benefit program of the Montgomery G.I. Bill. I urge all members of the Senate to join Senator JOHNSON and myself in support of the Veterans' Higher Education Opportunities Act.

Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE and Mr. CONRAD)

S. 132. A bill to amend the International Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

LOW INCOME HOUSING TAX CREDITS

Mr. JOHNSON. Mr. President, I rise today to introduce legislation which will correct an unintended oversight in the federal administration of Native American housing programs, allowing Indian tribes to once again access Low-Income Housing Tax Credits (LIHTCs) for housing development in some of this nation's most under-served communities.

In the 104th Congress, the Native American Housing Assistance and Self-Determination Act (NAHASDA) was signed into law, separating Indian housing from public housing and providing block grants to tribes and their tribally designated housing authorities. Prior to passage of NAHASDA, Indian tribes receiving HOME block grant funds were able to use those funds to leverage the Low Income Housing Tax Credits distributed by states on a competitive basis. Unfortunately, unlike HOME funds, block

grants to tribes under the new NAHASDA are defined as federal funds and cannot be used for accessing LIHTCs.

The fact that tribes cannot use their new block grant funds to access a program (LIHTC) which they formerly could access is an unintended consequence of taking Indian Housing out of Public Housing at HUD and setting up the otherwise productive and much needed NAHASDA system. The legislation I am introducing today is limited in scope and redefines NAHASDA funds, restoring tribal eligibility for the LIHTC by putting NAHASDA funds on the same footing as HOME funds. With this technical correction, there would be no change to the LIHTC programs—tribes would compete for LIHTCs with all other entities at the state level, just as they did prior to NAHASDA.

This technical corrections legislation is a minor but much needed fix to a valuable program that will restore equity to housing development across the country. The South Dakota Housing Development Authority has enthusiastically endorsed this legislation out of concern for equitable treatment of every resident of our state and to reinforce the proven success of the LIHTC program for housing development in rural and lower income communities.

I have joined many of my colleagues in past efforts to preserve and increase the Low-Income Housing Tax Credit program which benefits every state, and I ask my colleagues to recognize the importance of maintaining fairness in access to this program emphasized through this legislation and encourage my colleagues to support passage of this vital legislation.

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

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

S. 132

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 ''Low Income Housing Tax Credit for Native Americans Act''.

SEC. 2. CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting ''or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on the date of the enactment of the Low Income Housing Tax Credit for Native Americans Act)'' after ''this subparagraph)'', and

(2) in the subparagraph heading, by inserting ''OR NATIVE AMERICAN HOUSING ASSISTANCE'' after ''HOME ASSISTANCE''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. BAUCUS:

S. 133. A bill to amend the Internal Revenue code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to make permanent a temporary tax code provision that permits employers to pay for their employees' college tuition costs without the employee having to pay tax on the amount of the assistance. Senator GRASSLEY joins me as an original co-sponsor of the legislation.

Since its inception in 1979, section 127 of the tax code has enabled thousands of employers to promote continuing education among their employees and enabled millions of workers to advance their job skills without incurring additional taxes.

Under current law, an employer may provide up to $5,250 per year in tuition assistance to its employees without any reduction in the employee's take-home pay. This simple rule applies regardless of whether the classes undertaken are necessary to maintain an employee's job or to qualify for a new job. Without section 127, only those courses that directly relate to the employee's current job can be subsidized without additional taxes.

Section 127 has increased upward mobility for workers in an efficient manner that is supported by workers, educators and business. Workers can improve their job skills and prepare themselves for increased responsibility. Businesses can maintain qualified employees and help them advance within the organization. Educators and other students benefit from having students with real world experience participating in the classroom.

Congress has recognized the strength of section 127. In 1997 the Senate voted to make the provision permanent. In the 106th Congress, all 20 members of the Finance Committee sponsored legislation to make section 127 permanent. So why hasn't the legislation been enacted? While it is difficult to be sure, bills including permanent extension always come back from a conference with the House of Representatives as a short extension with no coverage for graduate courses. Our hope is that this year will be different.

There are two principal flaws in section 127. First, the benefit is scheduled to expire on December 31, 2001. The provision has been extended ten times since it original enactment. During 1995, the provision was expired and, even though reenacted in 1996, employers were not sure at the end of 1995 whether or not to report as income their employee-assistance program. We have had this provision in the Code long enough to know that it works and we should make it permanent. The bill Senator GRASSLEY and I introduce today would do just that.

The second flaw is that the program is limited to employer assistance for undergraduate courses. If an employer wants to provide funds for its employees to attend graduate school, then the employee has to increase his or her wages income and tax liability. For example, suppose a bank has an employee who wants to pursue an MBA. The employee earns $30,000 per year and pays $3,000 in federal income taxes. If the tuition costs $4,000, all of which is paid by the employer, then the worker has to pay 15 percent of the value of the assistance, or $600 in income taxes. This can be a strong disincentive for low and moderate income workers to accept an employer-sponsored tuition assistance offer.

The importance of graduate education has increased dramatically in the past two decades. For an increasing number of positions, graduate coursework is essential. For an increasing number of employers, providing graduate education is necessary to retain employees who are capable of doing work at higher levels, for more compensation. The bill would permit exclusion of employer-provided tuition benefits for undergraduate and graduate education.

Section 127 is one of the most successful education programs the federal government has ever undertaken. The legislation I am introducing today expands the program to graduate education and makes the provision permanent. I urge my colleagues to work with Senator GRASSLEY and me as we seek to enact this legislation.

Mr. GRASSLEY: Mr. President, today I am joining with Senator MAX BAUCUS in introducing a bill that would make permanent the exclusion for employer-provided educational assistance under §127 of the Internal Revenue Code. Section 127 allows public or private employers to provide up to $5,250 per year to each of their employees in tax-free reimbursement for tuition, books and fees for job or non-job related education. Section 127 is a purely private-sector initiative and the one vehicle that encourages employer investment and assistance in providing educational assistance to its workers. There is no bureaucracy administering this program—it is run through the generosity of private sector employers who provide educational opportunities to their employees in the interest of raising workforce productivity and making their businesses more competitive. Like other types of benefits, §127 employer-provided educational assistance must be provided on a nondiscriminatory basis and may not favor highly-compensated employees.

The Revenue Act of 1978 created §127 and established employer-provided educational assistance as excludable for any type of course, other than a hobby or a sport. Prior to 1978, only specific ''job-related'' education was excludable from taxable income. The provision has

been extended numerous times since its inception. It is time for the exclusion to become permanent.

I commend the leadership of Senator MAX BAUCUS for bringing this bill before the Senate and I am proud to be a cosponsor of the bill. I hope the rest of our colleagues in the Senate will join in supporting the enactment of this bill.

By Mrs. FEINSTEIN:

S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

LARGE CAPACITY AMMUNITION MAGAZINE IMPORT BAN ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise to re-introduce the same ban on importing large capacity ammunition magazines that passed both Houses of Congress in 1999 during the Juvenile Justice debate.

That amendment passed the Senate by voice vote after a Motion to Table failed 59–39.

The same provision, offered by then-Judiciary Chairman Henry Hyde on the House floor, passed by voice vote as an amendment to the House Juvenile Justice Gun Bill.

Nevertheless, these clips continue to flood into the country, because the Juvenile Justice bill became stalled in Conference, and never got to the President's desk.

It is time to take care of this once and for all—outside of politics, and outside of partisan bickering over other provisions. We simply cannot stand by and watch millions of these killer clips flood our shores.

Large-capacity ammunition clips are ammunition feeding devices, such as clips, magazines, drums and belts, which hold more than ten rounds of ammunition.

The 1994 assault weapons ban prohibited the domestic manufacture of these devices, but foreign companies are still sending them to our shores by the hundreds of thousands.

As the author of the 1994 provision, I can assure you that this was not our intent. We intended to ban the future manufacture of all high capacity clips, leaving only a narrow clause allowing for the importation of clips already on their way to this country.

Instead, due to the grandfather clause inserted into the 1994 legislation, BATF has allowed millions of foreign clips into this country, with no true method of determining date of manufacture. Between March 1998 and March 1999, BATF approved more than 11.4 million large-capacity clips for importation into America.

By voting for the amendment to the Juvenile Justice bill in 1999, a significant majority of this body has already agreed that it is both illogical and irresponsible to permit foreign companies to sell items to the American public—particularly items that are so often used for deadly purposes—that U.S. companies are prohibited from selling.

Supporting this legislation once again will simply finish what we already started during the juvenile justice debate, and bring foreign companies into greater compliance with the original intent of the 1994 law.

Opposing this bill would effectively allow foreign companies to continue to flout our laws, while domestic companies remain in compliance.

Let me just outline a bit of the history behind this issue.

Because of strong NRA opposition to the 1994 assault weapons ban and fears that businesses with inventories of the newly illegal products would be adversely impacted, we carved out a clause during negotiations to allow pre-existing guns and clips to remain on the shelves of stores across this country.

This so-called ''grandfather clause'' was also meant to allow guns and clips already on their way to this country to get here. Some Senators did not want to penalize companies that already had shipments in transit.

But it has now been more than six years, and these companies have had more than enough time to ship their pre-existing supplies of clips to the United States. Without question, many of these clips now flooding this country were made after the 1994 ban took effect. But because the ATF cannot tell when the clips were made, they must allow their import.

In 1998, President Clinton stopped the importation of most copycat assault weapons to this country with an Executive Order. However, the Justice Department advised us that the President does not have the authority to ban importation of big clips. As a result, millions of high capacity ammunition magazines continue to flow onto our shores and into the hands of criminals and, indeed, our children.

These clips come from at least 17 different countries, from Austria to Zimbabwe.

They come in sizes ranging from 15 rounds per clip to 30, 75, 90, or even 250 rounds per clip. In one recent one-year period:

20,000 clips of 250-rounds came from England;

Two million 15-round magazines came from Italy;

5,000 clips of 70-rounds came from the Czech Republic.

And the list goes on, and on, and on.

Mr. President, 75, 90 and even 250-round clips have no sporting purpose. They are not used for self defense. They have only one use—the purposeful killing of other men, women and children.

The legislation I re-introduce today will stop the flow of these clips into this country. I know that we cannot eliminate these clips from existence. But we can make them harder to obtain and, over time, dry up their supply.

These big clips allow disgruntled workers, angry children and psychopathic killers to exponentially increase the damage of their crimes. Let me give you just two examples.

In the now famous Springfield, Oregon shooting, a 15 year-old gunman with a 30-round clip killed two people and injured 22 more. Two dead, 22 wounded, all from one ammunition clip. It was only when his clip was finally empty and he had to pause to change clips that a fellow student was able to tackle and subdue him. Just imagine if the clip had held 75 rounds. Or 90. Or 250.

In the Jonesboro, Arkansas shooting, the two boys were armed with ten guns, one of which was a Universal carbine equipped with a 15-round killer clip. All 15 of the bullets in the killer clip were fired—more rounds than in all of the other nine guns combined. Five people were killed, ten other wounded.

Mr. President, in passing this legislation, we will not put an end to all incidents of gun violence now or in the near future. But we will begin to limit the destructive power of that violence. It will not stop every troubled child or adult who decides to commit an act of violence from doing so, but we can limit the tools used to carry out that act.

Passing this bill will not infringe on the legitimate rights of any adult gun owner or prevent a son or daughter from protecting the family from harm. It will not create a new category of banned guns.

But it will save some lives. It is just that simple. So let us do our best to ensure that the next time a troubled or vengeful child decides to strike out at his classmates, he cannot so easily find a gun that fires a hundred rounds a minute, or holds dozens of armor-piercing bullets.

Mr. President, I urge any of my colleagues who remain skeptical to look beyond the opposition rhetoric and into the heart of this legislation. And I urge them to look into their own hearts, and to realize that there are some things we can do to keep future Littletons from happening. This legislation is one of them.

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

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

S. 134

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 ''Large Capacity Ammunition Magazine Import Ban Act of 2001''.

SEC. 2. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''(1) Except as provided in paragraph (2)'' and inserting ''(1)(A) Except as provided in subparagraph (B)'';

(2) in paragraph (2), by striking ''(2) Paragraph (1)'' and inserting ''(B) Subparagraph (A)'';

(3) by inserting before paragraph (3) the following new paragraph:

''(2) It shall be unlawful for any person to import a large capacity ammunition feeding device.''; and

(4) in paragraph (4)—

(A) by striking ''(1)'' each place it appears and inserting ''(1)(A)''; and

(B) by striking ''(2)'' and inserting ''(1)(B)''.

SEC. 3. CONFORMING AMENDMENT.

Section 921(a)(31) of title 18, United States Code, is amended by striking ''manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994''.

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):

S. 135. A bill to amend title XVIII of the Social Security Act to improve payments for direct graduate, medical education under the medicare program; to the Committee on Finance.

CORRECTING THE DIRECT GRADUATE MEDICAL EDUCATION FORMULA

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to reform the longstanding inequity in the Medicare Direct Graduate Medical Education (DGME) formula that has unfairly compensated many teaching hospitals across the country in the past 15 years.

The Medicare DGME payment compensates teaching hospitals for many of the costs related to the graduate training of physicians.

This legislation is timely as many of our nation's 400 teaching hospitals are in the midst of a serious financial crisis.

Over 72 percent of all teaching hospitals are currently operating with negative margins, according to the Association of American Medical Colleges. Approximately 42 percent of the 100 major teaching hospitals could be operating at a loss by 2002.

Teaching hospitals are losing millions of dollars annually.

The University of Pennsylvania reported a $200 million deficit in 1999.

In Massachusetts, Beth Israel Deaconess Medical Center, Brigham and Women's Hospital, Massachusetts General Hospital, and the New England Medical Center posted operating losses for the six month period of October 1998 to March 1999 totaling more than $63 million.

The University of Minnesota sold its hospital to a private company in 1997 because ''it was bleeding red ink,'' according to the university's senior Vice-President for health sciences.

Wayne State University in Michigan lost nearly $200 million in 1998 and 1999.

Georgetown University lost $83 million in 1999, $62 million in 1998, and $57 million in 1997.

In my State, the University of California Los Angeles (UCLA) has seen its net income plunge $50 million and bottom out close to zero.

The University of California San Francisco faces a $25 million loss over the next year.

Excluding the University of California San Francisco, all University of California teaching hospitals collectively lost $90 million in net income since 1997.

Many factors are to blame for the financial crisis of our nation's teaching hospitals.

Balanced Budget Act of 1997:

The Balanced Budget Act (BBA) of 1997 took a major blow at teaching hospitals, significantly cutting federal Medicare payments.

The cuts included in BBA 1997, for example, has meant a loss of $25 million over three years to UCLA.

Penetration of Managed Care:

Managed care payments to many teaching hospitals barely cover costs. Twenty-eight percent of all privately insured Americans are enrolled in an HMO. In California, this number is 88 percent.

For example, California's capitation rate is one of the lowest in the nation. The average capitation rate in the State reached its peak in 1993 at $45 per month. Last year, the rate sunk to $29, while the cost of living jumped 25.2 percent.

Increasing Number of Uninsured:

The number of uninsured has exploded. Today, 44 million Americans are without health insurance, California alone has 7 million uninsured residents.

The high rate of uninsured impacts teaching hospitals because they are a major safety net provider—teaching hospitals provide approximately 44 percent of all care to the indigent. This means that when our nation's uninsured require medical care for complicated and complex pathologies, they find their way to teaching hospitals.

Academic medical centers affiliated with the University of California, for example, are the second largest safety net for a State that has the fourth highest uninsured rate in the country.

These are three examples of the forces behind the financial crisis of our nation's teaching hospitals. Low DGME payments further erode and destabilize the health care system.

Academic medical centers have three major responsibilities and missions—teaching, research, and patient care—which cause them to incur costs unique to such facilities. ''If just one leg of that three-legged stool is weak, it [academic medical centers] becomes destabilized,'' said Dr. Gerald Levey, UCLA's provost for health sciences. Low DGME payments are weakening teaching hospitals' ability to train future physicians.

Teaching hospitals account for only 6 percent of the nation's 5,000 hospitals. Despite the small number of teaching hospitals, they are a major provider of care. Teaching hospitals house: Forty percent of all neonatal intensive care units; fifty-three percent of pediatric intensive care units; and seventy percent of all burn units.

Teaching hospitals also handle: Twenty percent of all inpatient admissions; twenty-two percent of outpatient visits; nineteen percent of surgical operations, including 82 percent of all open heart surgeries; sixteen percent of emergency visits; and nineteen percent of all births.

The bottom line is that the financial crisis faced by teaching hospitals is impacting patient access to and quality of care.

California has been particularly impacted by this financial crisis.

Let me tell you how an outpatient eye clinic at the University of California, San Francisco has been impacted by the financial crisis facing teaching hospitals.

The clinic has a patient mix that is approximately 70 percent Medicare and 30 percent Medi-Cal. Due in part to historically low DGME payments, the clinic has had to decrease the number of staff, increase patient load, and cut faculty salaries by 15 percent. The number of patients seen on an average day, for example, has increased from 12 per half day to 18. Less time with each patient compromises quality of care.

According to a 1965 Medicare rule, Medicare paid for its share of DGME costs based on each hospital's ''Medicare allowable costs.'' This allowed for open-ended reimbursement.

Congress changed the methodology used to determine payments in 1986, and retroactively established Fiscal Year 1985 as the base year for all future calculations for DGME payments. The problem, which created this disparity in payments, is that some teaching hospitals narrowly interpreted the law and did not claim such expenses as faculty costs and benefits in 1985.

Submitted claims for 1985 were then used to determine a ''base formula'' for each teaching hospital. The base formula determined for each teaching hospital in 1985 has been used to determine all DGME payments since 1985 and disadvantages many teaching hospitals.

To give you an idea of the large variation in payments, 10 percent of teaching hospitals had per-resident payments of more than $98,800 in 1995, whereas the average payment for another 10 percent was below $37,400. The national mean in 1995 was $62,700.

A study conducted last year based on data from the Health Care Financing Administration (HCFA) further highlights the variations among teaching hospitals. The study shows that: Beth Israel Medical Center in Manhattan received an average Medicare payment of $57,010 a year for each resident it trains. In comparison, Columbia-Presbyterian Medical Center in Manhattan received an average of $24,444 per resident.

Even when cost-of-living and training expenses are presumably similar (both hospitals are in Manhattan), there is great variation in the payment received by hospitals for training residents.

Additional examples of variations in payments include: Montefiore Medicare

Center in the Bronx received an average of $55,073 per resident; Massachusetts General Hospital in Boston received an average of $29,843 per resident; Cleveland Clinic Hospital received an average of $16,118 per resident, and the University of California, Los Angeles Medical Center received an average of $11,908 per resident.

In an attempt to level the playing field, the Balanced Budget Refinement Act of 1999 (BRA) contained provision that created a 70 percent floor and a 140 percentage ceiling for Medicare DGME payments. The Medicare, Medicaid, and SCHIP Improvement Act of 2000 also contained provision to increase the floor to 85 percent in 2002.

While Congress has begun to address the tissue of variations in DGME payments by implementing a floor and a ceiling for payments in 1999 and 2000, more must be done.

I believe all teaching hospitals should receive reimbursement from Medicare that equal the national average. Bringing all teaching hospitals up to the national average, without undermining the financial stability of those teaching hospitals currently receiving payments above the national average, could help stabilize our nation's health care system.

The legislation that I am introducing today takes good steps to reduce variations in DGME and restore stability to the system.

As established in current law, the floor for Medicare reimbursements for teaching hospitals would equal 85 percent by Fiscal Year 2002. Over a period of four years (from FY 2003–2006), this legislation would bring teaching hospitals that are currently reimbursed by Medicare below the national average up to the national average.

The phase in is as follows:

Beginning in Fiscal Year 2003 and 2004, the floor would be increased to 90 percent.

In Fiscal Year 2005 the floor would be increased to 95 percent.

By Fiscal Year 2006, all teaching hospitals would be receiving per resident payments that equal at least 100 percent of the national average. Those teaching hospitals receiving payments above the national average would be held harmless.

Approximately thirty-eight States benefit under the proposed legislation. Teaching hospitals in several states will benefit over the next several years due in combination to the proposed legislation and the changes made in both 1999 and 2000 to increase the floor for DGME payments.

California to Benefit:

California will gain approximately $61.5 million over the next 6 years as a result of this legislation and the changes made to the DGME floor in 1999 and 2000.

For example, the University of California Medical Centers will gain $16.3 million over six years. The medical center at the University of Davis will gain $3.2 million; the medical center at the University of Irvine will gain $1.6 million; UCLA's medical center will gain $5.8 million; the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of State impact under the proposed legislation. These numbers are significant. Many of our nation's teaching hospitals would greatly benefit under the proposed legislation.

The proposed legislation would use new money to move teaching hospitals below the national average up to the average. Less than $500 million over 4 years would be borrowed from the Medicare Part A Trust fund to pay for the increase in Medicare payments to direct graduate medical education. So as to keep the Medicare Part A Trust Fund solvent beyond 2025, this legislation authorizes the Senate to appropriate to the Trust Fund annually an amount equal to what is taken out to reimburse teaching hospitals at this higher rate.

Teaching hospitals rely heavily on DGME payments to train and support their medical students and faculty.

For example, medical education funding in California helps support 108 hospitals that train more than 6,700 residents over three-to-five year periods. California received $75.1 million in DGME payments in 1997.

Many of the nation's teaching hospitals will be forced to close down beds and lower the quality of care they provide. UCLA has had to lay off 300 employees in the past few years due to budget constraints.

In a statement issued April 2000 by the Association of American Medical Colleges (AMC), the association said that:

To enhance the credibility of the payment system and to eliminate inequities in payment levels, the AMC believes that payments to any hospital whose per resident DGME amount is below the national average per resident DGME payment levels (adjusted for local variability in cost of living wages) should be raised closer to the national average; additional funding resources should be used to accomplish this adjustment.

This legislation does just that—over a period of four years, teaching hospitals receiving payments below the national average will be brought up to the national average using new money. It is that simple.

''Teaching hospitals are a national resource,'' says Albert Carnesale, Chancellor of UCLA. I agree with Chancellor Carnesale. I believe that the vitality of our nation's teaching hospitals should be of highest concern to Congress.

As our nation's uninsured rate continues to grow and the population continues to explode, we must work to ensure that we have an adequate supply of physicians to provide medical care. Training physicians and providing teaching hospitals with the funds necessary to offer this training should be of highest priority.

I believe that a teaching hospital's ability to serve their communities and train physicians will be further compromised if we do not enact this legislation.

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. 135

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 ''Direct Graduate Medical Education Improvement Act of 2001''.

SEC. 2. ESTABLISHMENT OF A FLOOR FOR THE LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT DURING FISCAL YEARS 2003 THROUGH 2006.

(a) IN GENERAL.—Section 1886(h)(2)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(h)(2)(D)(iii)), as amended by section 511 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), is amended to read as follows:

''(iii) FLOOR FOR LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—

''(I) IN GENERAL.—The approved FTE resident amount for a hospital for a cost reporting period beginning during a fiscal year shall not be less than the applicable percentage of the locality adjusted national average per resident amount computed under subparagraph (E) for the hospital for that period.

''(II) APPLICABLE PERCENTAGE.—In this clause, the term 'applicable percentage' means, in the case of a cost reporting period beginning during—

''(aa) fiscal year 2001, 70 percent;

''(bb) fiscal year 2002, 85 percent;

''(cc) fiscal year 2003 or 2004, 90 percent;

''(dd) fiscal year 2005, 95 percent; and

''(ee) fiscal year 2006, 100 percent.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—For each fiscal year (beginning with fiscal year 2003), there are authorized to be appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) an amount equal to the amount by which expenditures under such Trust Fund are increased for the fiscal year by reason of the enactment of items (cc), (dd), and (ee) of section 1886(h)(2)(D)(iii)(II) of such Act (42 U.S.C. 1395ww(h)(2)(D)(iii)(II)), as added by subsection (a).

By Mr. GRAMM:

S. 136. A bill to amend the Omnibus trade and Competitiveness Act of 1988 to extend trade negotiating and trade agreement implementing authority; to the Committee on Finance.

S. 137. A bill to authorize negotiation of free trade agreements with countries of the Americas, and for other purposes; to the Committee on Finance.

S. 138. A bill to authorize negotiation for the accession of Chile to the North American Free Trade. Agreement, and for other purposes; to the Committee on Finance.

S. 140. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

FOUR TRADE POLICY INITIATIVES

Mr. GRAMM. Mr. President, trade has been very good for America and her people. Trade is our game, and we excel at it. In 1999, Americans exported a record $956 billion in goods and services. No other country even came close.

Trade has brought untold benefits to our people not the least of which are high-paying jobs, increased consumer choice, increased economic competitiveness. When Pericles spoke of Athens in his Funeral Oration, he might well have been speaking of us: ''The magnitude of our city draws the produce of the world into our harbor, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own.'' Those who peddle defeatism as they clamor for protectionist measures are subverting our best means of growth. As President Reagan warmed in 1988, ''protectionism is destructionism.''

Let me point out to my colleagues that it is not just the United States that profits. The whole world has benefitted from the expansion of trade among nations. Trade has been a wealth-generating machine the likes of which the world has never seen. By committing ourselves to an open world trade system, the US and its partners unleashed increasing economic growth and prosperity and brought hope and freedom to more people than any victory in any war in history. It is no wonder that the world trading system we know of as the WTO—formerly the GATT—has gone from a handful of nations in 1948 to some 140 nations today.

My fervent goal has been to keep world trade expanding so that more people in more nations can enjoy what Pericles aptly called the ''fruits'' of trade. We in America have been at the vanguard of trade liberalization efforts, both globally and regionally. We must continue that trend. Unfortunately, over recent years this nation has slid into an unwise hiatus in moving new global or regional trade liberalization initiatives. But this year, with a new President, committed to trade, we have a new opportunity before us. Now is the time for us to reassert our leadership, to set the pace for trade expansion throughout our hemisphere and throughout the world.

Today I am introducing four pieces of legislation intended to get us started. The first bill, the Fast-Track Trade Negotiating Authority Act, would provide the President with much-needed fast track authority, so that he may expand trade by entering into trade agreements with our partners around the world. Fast track is key to unleashing the wealth-generating machine of trade still further, to all corners of the world. It is long past time to reauthorize this critical provision.

The second measure, the Americas Free Trade Act, would lead to the extension of free trade from Alaska to Cape Horn in our own hemisphere. It would provide the President with fast track authority for implementation of free trade agreements with any or all of the 33 other nations of the Western Hemisphere, for the benefit of its more than 800 million residents. According to the 1994 agreement among the leaders of the Western Hemisphere, the Free Trade Agreement of the Americas should be concluded by 2005. Having fast track authority in hand will give our President the ability to move the FTAA talks forward dramatically and successfully.

Both the third bill, the Chile NAFTA Accession Act, and the fourth bill, the United Kingdom NAFTA Accession Act, seek to build bridges with key trading partners in order to spur larger trade liberalization efforts. Chile is a critical trading partner in South America who has been knocking at the NAFTA door for some time. The United Kingdom is a key partner in Western Europe who by joining NAFTA can help keep Europe from erecting protectionist walls against the rest of the world. Agreements with these two important nations can keep trade liberalization moving forward.

Mr. President, my commitment to this cause is longstanding. In 1986 I introduced legislation to begin negotiations for a free trade agreement with Mexico. In 1987, I introduced a bill that laid out a framework for negotiating a North American free trade area—a bill which later served as the basis for an amendment I offered to the 1988 trade bill and adopted by the Senate that authorized the negotiation of the NAFTA. In 1989, I once again introduced trade legislation and called for a free agreement encompassing the entire Western Hemisphere. I have introduced similar legislation in each Congress since then. It is my hope that the bills I am introducing today will serve as the basis for successful trade legislation in the 107th Congress.

I ask unanimous consent that the text of the Fast Track Trade Negotiating Authority Act, the Americas Free Trade Act, the Chile NAFTA Accession Act, and the United Kingdom NAFTA Accession Act, together with a summary of these bills, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

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 ''Fast Track Trade Negotiating Authority Act''.

SEC 2. AMENDMENTS TO TRADE NEGOTIATING AUTHORITY.

(a) EXTENSION.—Section 1102(a)(1)(A), (b)(1), and (c)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(1)(A), (b)(1), and (c)(1)) are amended by striking ''June 1, 1993'' each place it appears and inserting ''December 31, 2004''.

(b) CONFORMING AMENDMENT.—

(1) Section 1102(a)(1) and (b)(1) of such Act are amended by striking ''purposes, policies, and objectives of this title'' each place it appears and inserting ''policies and objectives of the United States''.

(2) Section 1102(a)(2)(A) of such Act is amended by striking ''August 23, 1988'' each place it appears and inserting ''January 22, 2001''.

(3) Subsections (b)(2) and (c)(3)(A) of section 1102 of such Act are amended by striking ''applicable objectives described in section 1101 of this title'' each place it appears and inserting ''policies and objectives of the United States''.

(4) Subsection (d)(2)(B) of section 1102 of such Act is amended by striking ''applicable purposes, policies, and objectives of this title'' and inserting ''policies and objectives of the United States''.

(5) Section 1103(b)(1)(A) of such Act is amended by striking ''June 1, 1991'' and inserting ''December 31, 2004''.

(6) Subsection (a)(2)(B)(i) of section 1103 of such Act is amended by striking ''applicable purposes, policies, and objectives of this title'' and inserting ''policies and objectives of the United States''.

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 ''Americas Free Trade Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the twentieth century in the peaceful conduct of their relations among themselves than have the countries in the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the Western Hemisphere, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or

on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. FREE TRADE WITH FREE CUBA.

(a) RESTRICTIONS PRIOR TO RESTORATION OF FREEDOM IN CUBA.—The provisions of this Act shall not apply to Cuba unless the President certifies to Congress that—

(1) freedom has been restored in Cuba; and

(2) the claims of United States citizens for compensation for expropriated property have been appropriately addressed.

(b) STANDARDS FOR THE RESTORATION OF FREEDOM IN CUBA.—The President shall not make the certification that freedom has been restored in Cuba, for purpose of subsection (a), unless the President determines that—

(1) a constitutionally guaranteed democratic government has been established in Cuba with leaders chosen through free and fair elections;

(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba;

(3) Cuba has a currency that is fully convertible domestically and internationally;

(4) all political prisoners have been released in Cuba; and

(5) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) PRIORITY FOR FREE TRADE WITH FREE CUBA.—Upon making the certification described in subsection (a), the President shall give priority to the negotiation of a free trade agreement with Cuba.

SEC. 5 INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 3, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 3—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term ''implementing bill'' means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chose and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting ''section 5 of the Americas Free Trade Act,'' after ''the Omnibus Trade and Competitiveness Act of 1988,''; and

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

''(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.''; and

(2) in subsection (c)(1), in inserting ''or under section 5 of the Americas Free Trade Act,'' after ''the Uruguay Round Agreements Act,''.

S. 138

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 ''Chile-NAFTA Accession Act''.

SEC. 2. ACCESSION OF CHILE TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) IN GENERAL.—Subject to section 3, the President is authorized to enter into an agreement described in subsection (b) and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 2002.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection means an agreement that—

(1) provides for the accession of Chile to the North American Free Trade Agreement; or

(2) is a bilateral agreement between the United States and Chile that provides for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade and the eventual establishment of a free trade area between the United States and Chile.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term ''implementing bill'' means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of

the implementing bill against the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting ''section 3 of the Chile-NAFTA Accession Act,'' after ''the Omnibus Trade and Competitiveness Act of 1988,''; and

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

''(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.''; and

(2) in subsection (c)(1), by inserting ''or under section 3 of the Chile-NAFTA Accession Act,'' after ''the Uruguay Round Agreements Act,''.

S. 140

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 ''United Kingdom-NAFTA Accession Act''.

SEC. 2. ACCESSION OF UNITED KINGDOM TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) IN GENERAL.—Subject to section 3, the President is authorized to enter into an agreement described in subsection (b) and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 2003.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection means an agreement that—

(1) provides for the accession of United Kingdom to the North American Free Trade Agreement; or

(2) is a bilateral agreement between the United States and United Kingdom that provides for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade and the eventual establishment of a free trade area between the United States and United Kingdom.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term ''implementing bill'' means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting ''section 3 of the United Kingdom-NAFTA Accession Act,'' after ''the Omnibus Trade and Competitiveness Act of 1988,''; and

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

''(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.''; and

(2) in subsection (c)(1), by inserting ''or under section 3 of the United Kingdom-NAFTA Accession Act,'' after ''the Uruguay Round Agreements Act,''.

SUMMARY OF FOUR TRADE POLICY INITIATIVES

FAST TRACK TRADE NEGOTIATING AUTHORITY ACT

Authorizes the President to enter into bilateral or multilateral trade agreements.

Reauthorizes traditional fast track authority procedures for implementing legislation for such agreements as long as agreements are entered into by December 31, 2004.

Updates existing outdated negotiating objectives to encompass policies and objectives of the United States.

AMERICAS FREE TRADE ACT

Directs the President to initiate negotiations for trade agreements with the nations of the Western Hemisphere to promote a free trade area for the Hemisphere.

Bars the application of the Act to Cuba until the President certifies that freedom has been restored in Cuba and US expropriation claims have been addressed, at which time priority is given to a trade agreement with Cuba.

Applies fast-track procedures to implementing legislation for such agreements.

Limits implementing legislation to those provisions necessary to implement an agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

CHILE NAFTA ACCESSION ACT

Authorizes the President to enter into an agreement with Chile that provides for

Chile's accession into NAFTA, or consists of a US/Chile bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2002.

Limits implementing legislation to those provisions necessary to implement the agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

UNITED KINGDOM NAFTA ACCESSION ACT

Authorizes the President to enter into an agreement with the United Kingdom that provides for the United Kingdom's accession into NAFTA, or consists of a US/UK bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2003.

Limits implementing legislation to those provisions necessary to implement the agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

By Mr. BENNETT:

S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

UTAH PUBLIC LANDS ARTIFACT PRESERVATION ACT OF 2001

Mr. BENNETT. Mr. President, I rise today to introduce my first bill of the 107th Congress, the ''Utah Public Lands Artifact Preservation Act of 2001.''

Utah's public lands are a treasure trove of the natural and cultural history of the west. Over a century of scientific exploration and research of these public lands have unearthed Native American artifacts, fossilized remains of prehistoric life-forms, and other objects of botanical and geological significance. Fortunately, these unique and remarkable finds now comprise a substantial portion of the collection of the University of Utah Museum of Natural History.

The University of Utah Museum of Natural History collection contains more than one million objects and artifacts from the field of archaeology, botany, geology, paleontology, and zoology. It is one of the largest and most comprehensive collections in the region and is internationally significant. Over 75 percent of the collection was recovered from lands managed by the Bureau of Land Management, Bureau of Reclamation, National Park Service, United States Fish and Wildlife Service, and United States Forest Service.

Currently the home of the Museum of Natural History is the library where I studied while I was a student at the University of Utah. Although I have fond memories of the time I spent in the library, it is an unfit home for the museum. As we all know, the needs of a library and the needs of a museum are very different. The current facility is not large enough to accommodate the museum's annual level of visitation. Additionally, space to display the collection is severely limited and the facilities to store the collection are unsuitable for a museum, Clearly, the Museum of Natural History needs an appropriate structure to exhibit, research, and house its collection.

This legislation will result in an enhanced museum experience that will be more meaningful, educational, and accessible to the public and scientific researchers. Furthermore, the collection will no longer be jeopardized by inadequate facilities. The new museum will contain proper facilities for storage and research.

I believe the strength of this project lies in the fact that its success will rely upon a public-private partnership among the state of Utah, the federal government, and hundreds of private individuals and foundations. Already, unprecedented support has been given by the Emma Eccles Jones Foundation for this project. I expect there will be many generous offers of support in the near future to make this project a success.

I believe that this legislation is an exciting opportunity to showcase the many treasures that Utah's public lands contain. I look forward to working with my colleagues in the Senate and the new administration to pass this legislation this session.

By Mr. McCAIN:

S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PIPELINE SAFETY IMPROVEMENT ACT

Mr. McCAIN. Mr. President, today I am introducing the Pipeline Safety Improvement Act of 2001. I am very pleased to be joined in sponsoring this important transportation safety legislation by Senators Murray, Hollings, Hutchison, Bingaman, Domenici, and Breaux. This bill, which is identical to the measure approved unanimously by the Senate last year but which failed to be sent to the President, is being introduced today to demonstrate our strong, continued commitment to improving pipeline transportation safety. We urge our colleagues to join us in our efforts to help remedy identified safety problems and improve pipeline safety for all Americans.

As most of my colleagues well know, the Senate worked long and hard during the last Congress to produce comprehensive pipeline safety legislation. As a result of our bipartisan efforts, we unanimously approved pipeline safety improvement legislation last September. Unfortunately, the House failed to approve a pipeline safety measure and the Congress thus failed in its efforts to improve pipeline safety. As a result, the unacceptable status quo under which at least 16 fatalities have occurred remains the law of the land. I am hopeful that this new Congress will act quickly to take the overdue action necessary to improve pipeline safety before any more lives are lost.

Mr. President, let me be clear from the outset that I continue to support passage of the strongest pipeline safety bill possible. As such, I will be very eager to receive safety improvement recommendations from the new Administration. Indeed, I look forward to working with the Administration, the House of Representatives, safety advocates, industry and other concerned citizens to advance a sound legislative proposal that can be signed into law.

Although pipeline safety legislation was not enacted last year as we had hoped, the President did issue an executive order requiring a number of safety actions by pipeline operators. Further, the Department of Transportation (DOT) also issued a number of regulations during the past few months. The Administration's actions will be carefully considered by the Commerce Committee and we will work to ensure our legislation reflects the Administration's actions, as appropriate, as we advance the legislation to the full Senate.

The following highlights some of the major provisions of the legislation we are reintroducing today:

The bill would require the implementation of pipeline safety recommendations issued last March by the Department of Transportation Inspector General to the Research and Special Programs Administration (RSPA). The legislation would statutorily require the Secretary of Transportation, the RSPA Administrator and the Director of the Office of Pipeline Safety to respond to NTSB pipeline safety recommendations within 90 days of receipt. The bill would require pipeline operators to submit to the Secretary of Transportation a plan designed to improve the qualifications for pipeline personnel. At a minimum, the qualification plan would have to demonstrate that pipeline employees have the necessary knowledge to safely and properly perform their assigned duties and would require testing and periodic reexamination of the employees' qualifications.

The legislation would require DOT to issue regulations mandating pipeline operators to periodically determine the adequacy of their pipelines to safely operate and to implement integrity management programs to reduce those identified risks. The regulations would, at a minimum, require operators to: base their integrity management plans on risk assessments that they conduct; periodically assess the integrity of their pipelines; and, take steps to prevent and mitigate unintended releases, such as improving leak detection capabilities or installing restrictive flow devices.

The bill also would require pipeline operators to carry out a continuing public education program that would include activities to advise municipalities, school districts, businesses, and residents of pipeline facility locations on a variety of pipeline safety-related matters. It would also direct pipeline operators to initiate and maintain communication with State emergency response commissions and local emergency planning committees and to share with these entities information critical to addressing pipeline safety issues, including information on the types of product transported and efforts by the operator to mitigate safety risks.

The legislation directs the Secretary to develop and implement a comprehensive plan for the collection and use of pipeline data in a manner that would enable incident trend analysis and evaluations of operator performance. Operators would be required to report incident releases greater than five gallons, compared to the current reporting requirement of 42 gallons. In addition, the Secretary would be directed to establish a national depository of data to be administered by the Bureau of Transportation Statistics in cooperation with RSPA.

Given the critical importance of technology applications in promoting transportation safety across all modes of transportation, the legislation directs the Secretary to include as part of the Department's research and development (R&D) efforts a focus on technologies to improve pipelines safety, such as through internal inspection devices and leak detection. Further, the legislation includes provisions advanced last year by Senator Bingaman, myself, and others, to provide for a collaborative R&D effort directed by the Department of Transportation with the assistance of the Department of Energy and the National Academy of Sciences.

The bill provides for a three year authorization in funding for federal pipeline safety activities and the pipeline state grant program. The authorization levels in particular will be carefully reviewed as the bill proceeds through the legislation process. We must ensure sufficient funding is authorized to carry out critical pipeline safety activities and to advance research and development efforts.

The legislation requires operators, in the event of an accident, to make available to the DOT or NTSB all records and information pertaining to the accident and to assist in the investigation to the extent reasonable. It also includes provisions to ensure that if an accident occurs, a review is carried out to ensure the operator's employees can safely perform their duties.

Finally, to ensure pipeline employees are afforded the same whistle-blower protections as are provided to employees in other modes of transportation, the legislation includes protections for pipeline personnel, similar to those protections provided to aviation-related employees last year in the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century, P.L. 106–181.

Again Mr. President, I will be interested in receiving additional recommendations to further strengthen federal pipeline safety policy. I hope this Congress can act expeditiously to approve comprehensive pipeline safety legislation. We simply cannot afford another missed opportunity to address identified pipeline safety shortcomings.

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. 141

(Data not available at time of printing, the bill will print in a subsequent issue of the RECORD.)

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE)

S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for a packer to own, feed, or control livestock intended for slaughter, to the Committee on Agriculture, Nutrition, and Forestry.

AMENDING THE PACKERS AND STOCKYARDS ACT

S. 142

Mr. JOHNSON. 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. 142

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

SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

''(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to—

''(1) a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

''(A) own, feed, or control livestock; and

''(B) provide the livestock to the cooperative for slaughter; or

''(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or''; and

(3) in subsection (h) (as so redesignated), by striking ''or (e)'' and inserting ''(e), or (f)''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, Mr. BOND, Mr. TORRICELLI, Mr. ALLARD, and Mr. CRAPO):

S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those requires to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

COMPETITIVE MARKET SUPERVISION ACT OF 2001

Mr. GRAMM. Mr. President, today I am joined by Senator SCHUMER, together with Senators HAGEL, ENZI, BENNETT, BUNNING, BOND, TORRICELLI, ALLARD, and CRAPO in introducing the Competitive Market Supervision Act of 2001. This important legislation will reduce the excess fees collected by the Securities and Exchange Commission (SEC). At the same time, the legislation will guarantee that the SEC is fully funded by fee collections, allowing fee adjustments to meet appropriated amounts. This legislation, moreover, will level unaffected the funds available for appropriations purposes by walling off the offsetting fee collections that are expected under current law.

Under current budget estimates, this legislation will result in a reduction of fee collections by more than $1 billion in the first year and by about $8 billion over the next 5 years.

A second key element of the bill is that it will extend to the SEC the same salary authority for its employees as is exercised by the Federal banking agencies.

A similar bill, S. 2107, which included the identical provisions of the bill I am introducing today, was approved by the Senate Banking, Housing, and Urban Affairs Committee last year.

REDUCTION OF SECURITIES USER FEES

The original objective of the user fees collected by the Commission was to provide a funding source for the agency's operations. However, increases in stock market volume and valuation have spawned revenues that far surpass what is needed to operate the agency. In fiscal year 2000, to fund a budget of $375 million, the SEC collected $2.27 billion. According to the most recent Congressional Budget Office (CBO) projections, the savings to

investors and issuers from this legislation will be approximately $8 billion over 5 years, and nearly $14 billion over ten years, without reducing funds available for the SEC or for necessary appropriations.

Rather than user fees, these revenues have become taxes on savings and investment, taxes that lower the returns of every investor who buys stock, owns a mutual fund, or plans to use Individual Retirement Accounts, 401(k) plans, or pensions to fund retirement. Furthermore, excess Section 6(b) fees are particularly harmful since these taxes are imposed at the beginning of the investment cycle, subtracting from the economy monies that could be leveraged into several times their value to finance efforts to create jobs, develop new products, and build America.

Section 2 of the bill amends Section 6(b) of the Securities Act of 1933 to lower registration fee rates. In addition, this section eliminates the general revenue portion of the registration fee. The offsetting collection rate is set at $67 per $1 million of securities registered for FY 2002–06, and at $33 per $1 million for FY 2007 and thereafter. Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 from one fiftieth percent under current law to $67 per $1 million of securities involved for the period FY 2002–06, and reduces rates further to $33 per $1 million for FY 2007 and thereafter, and all fees are also reclassified from general revenues to offsetting collections. It is important to harmonize the fee registration, and merger and tender fee rates so as to provide no distortions or inject any unintended incentives into the managerial decision as to when a merger should occur.

Under Section 4, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with the same fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set in Section 4 for that year. The target dollar amount is calculated to approximate the amount of transaction fees required so that, when combined with anticipated registration and merger/tender fees, total offsetting collections will approximately equal the offsetting collections anticipated under current law. If the most recent projections prove accurate, this will reduce transaction fee rates by as much as two-thirds.

I would note that the fee targets established under Section 4 are based upon the most recent budget estimates available. It is my intention to adjust those targets prior to Committee action on the bill as new budget estimates become available in the next few weeks.

AUTHORITY OF SEC TO ADJUST TO FEE RATES

Given the difficulty in predicting fee revenues, it is also important to provide a framework that ensures full funding for the SEC. Therefore, Section 5 of this legislation provides the Commission with the authority to adjust fee rates to ensure that the agency is fully funded in the event that reductions in market valuations or volume produce revenues below the legislated targets. In addition, Section 5 requires the agency to lower fee rates when fees are projected to bring in revenues that are in excess of the cap on fee collections laid out in the bill. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

SEC PAY COMPARABILITY

Section 6 of the bill amends the Securities Exchange Act of 1934 to extend to the SEC the same authority provided to the federal bank regulators to adjust base rates of compensation for all of its employees. Under existing law, the Commission may do this only for its economists. The provisions allow parity among the Commission and Federal banking agency compensation programs. This change is particularly timely since under the terms of the Gramm-Leach-Bliley Act, in many institutions, examiners from the SEC will be working along side examiners from the federal banking regulators. Without this pay comparability, we could witness a drain of talent from the SEC toward the other examiners. An amendment also is made to the Federal Deposit Insurance Act to bring the SEC within the consultation and information-sharing requirements of other agencies mentioned at 12 U.S.C. 1833b with respect to rates of employee compensation. A further technical amendment to section 1833b deletes references to entities that have been abolished.

The legislation assures that reductions, if any, in the base pay of a Commission employee represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organization and Commission management, rather than by reason of the enactment of this amendment.

Mr. President, I look forward to early and favorable consideration of the Competitive Market Supervision Act of 2001. I ask that a summary of the provisions of the bill and bill text be included in the RECORD.

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

S. 143

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 ''Competitive Market Supervision Act of 2001''.

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

SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.'';

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per $1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

''(i) $67 for each of fiscal years 2002 through 2006.

''(ii) $33 for fiscal year 2007 and each fiscal year thereafter.''; and

(B) in subparagraph (B), by striking ''this paragraph (4)'' and inserting ''this paragraph''; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

''(4) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

''(3) FEES.—

''(A) IN GENERAL.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(b) SECTION 14.—

(1) PRELIMINARY PROXY SOLICITATIONS.—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking ''Commission the following fees'' and all that follows through the end of the subparagraph and inserting ''Commission—

''(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

''(I) $67 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

''(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

''(I) $67 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.'';

(B) in subparagraph (B), by inserting ''REDUCTION.—'' before ''The fee''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(2) OTHER FILINGS.—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking ''At the time'' and inserting the following: ''OTHER FILINGS.—

''(A) FEE RATE.—At the time'';

(B) by striking ''the Commission a fee of'' and all that follows through ''The fee'' and inserting the following: ''the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required under subparagraph (A)''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

''(b) TRANSACTION FEES.—

''(1) IN GENERAL.—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness)—

''(A) transacted on such national securities exchange;

''(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange; and

''(C) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subparagraph (B).

''(2) FEE RATE.—

''(A) TRANSACTION OFFSETTING COLLECTION RATE.—For purposes of this subsection, the 'transaction offsetting collection rate' for a fiscal year—

''(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

''(ii) shall become effective on the later of the beginning of that fiscal year or the date of enactment of appropriations legislation setting such rate.

''(B) TRANSACTION FEE CAP.—For purposes of this paragraph, the 'transaction fee cap' shall be equal to—

''(i) $497,000,000 for fiscal year 2002;

''(ii) $607,000,000 for fiscal year 2003;

''(iii) $706,000,000 for fiscal year 2004;

''(iv) $896,000,000 for fiscal year 2005;

''(v) $1,094,000,000 for fiscal year 2006;

''(vi) $554,000,000 for fiscal year 2007;

''(vii) $580,000,000 for fiscal year 2008;

''(viii) $719,000,000 for fiscal year 2009; and

''(ix) $884,000,000 for fiscal year 2010 and each fiscal year thereafter.

''(c) LIMITATION; DEPOSIT OF FEES.—

''(1) LIMITATION.—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) for any fiscal year, except to the extent provided in advance in appropriation Acts.

''(2) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(d) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this section at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act), until such a regular appropriation is enacted.'';

(2) in subsection (e), by striking ''subsections (b), (c), and (d)'' and inserting ''subsection (b)''; and

(3) in subsection (g), by striking ''rates'' and inserting ''rate''.

SEC. 5. ADJUSTMENTS TO FEE RATES.

(a) ESTIMATES OF COLLECTIONS.—

(1) FEE PROJECTIONS.—The Securities and Exchange Commission (hereafter in this Act referred to as the ''Commission'') shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees from all sources likely to be collected by the Commission during the current fiscal year.

(2) SUBMISSION OF INFORMATION.—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during such month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees pursuant to paragraph (1).

(b) FLOOR FOR TOTAL FEE COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee collections, the Commission may by order, subject to subsection (e), increase the fee rate established under section 31 of the Securities Exchange Act of 1934 to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay the Commission the fee required by section 31 of the Securities Exchange Act of 1934 at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) CAP ON TOTAL FEE COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees collected by the Commission will exceed the cap on total fee collections by more than

5 percent during any fiscal year, the Commission shall by order, subject to subsection (e), decrease the fee rate or suspend collection of fees under section 31 of the Securities Exchange Act of 1934 to the extent necessary to bring estimated collections to an amount equal to the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay the Commission the fee required by section 31 of the Securities Exchange Act of 1934 at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

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

(1) the term ''floor for total fee collections'' means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term ''cap on total fee collections'' means—

(A) for fiscal years 2002 through 2010, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2011 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under subsection (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) NOTICE.—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

SEC. 6. COMPARABILITY PROVISIONS.

(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.—

(1) IN GENERAL.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—

''(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under this Act.

''(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

''(C) COMPARABILITY.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).''; and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this subsection.

(b) REPORTING ON INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Federal Deposit'';

(2) by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''; and

(3) by adding at the end the following:

''(b) In establishing and adjusting schedules of compensation and benefits for employees of the Securities and Exchange Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under subsection (a) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'' after the semicolon;

(B) in subparagraph (D), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following:

''(E) the Securities and Exchange Commission.''.

(2) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''or'' after the semicolon;

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) section 4(b) of the Securities Exchange Act of 1934.''.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

SECTION-BY-SECTION ANALYSIS OF THE COMPETITIVE MARKET SUPERVISION ACT OF 2001

Section 1. Short title

Designates this title as the ''Competitive Market Supervision Act of 2001.''

Section 2. Reduction in registration fees; elimination of general revenue component

Registration fee rates in Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) are reduced. The general revenue portion of the registration fee is eliminated. The offsetting collection rate is set at $67 per $1 million of securities registered for FY 2002–2006, and at $33 per $1 million for FY 2007 and thereafter.

Section 3. Reduction in merger and tender fees; reclassification as offsetting collections

Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3) and 78n(g), respectively) from one fiftieth percent under current law, to $67 per $1 million of securities involved for the period FY 2002–2006, and reduces rates further to $33 per $1 million for FY 2007 and thereafter. All fees are reclassified from general revenues to offsetting collections.

Section 4. Reduction in transaction fees; elimination of general revenue component

Under this section, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with the same fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set for that year. The target dollar amount is calculated to appropriate the amount, when combined with anticipated registration and merger/tender fees, that will approximately equal the offsetting collections anticipated to be produced under current law.

Section 5. Adjustment to fee rates

The Commission is given authority to increase or decrease transaction fee rates after the first half of the fiscal year if projections show that either the cap or floor for total fee collections will be breached. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

Section 6. Comparability provisions

Section 6(a) amends Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) to authorize, but not require, the SEC to compensate its employees according to a scale outside the Federal Government's General Schedule (GS) rates. Pursuant to this authority, the SEC may provide additional compensation and benefits to its employees on the same comparable basis as do the agencies referred to under Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b). Such agencies include the Federal banking agencies, the National Credit Union Administration, the Federal Housing Finance Board, and the Farm Credit Administration.

The amendment ensures that reductions, if any, in base pay for an employee of the SEC represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organizations and SEC management, as opposed to by reason of the enactment of this amendment.

In establishing and adjusting schedules of compensation and benefits for its employees, Section 6(b) requires the SEC to inform the heads of the agencies mentioned above and must seek to maintain comparability with such agencies regarding compensation and benefits. A technical change is made to strike from Section 1206(a) the reference to the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation, which was abolished on December 31, 1995. Section 6(c) provides certain conforming amendments to Title 5 of the United States Code to reflect changes made under subsection (a).

Section 7. Effective date

In general, the effective date is October 1, 2001. However, certain fee reductions will not become effective until October 1, 2002.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to S.J. Res. 73, which I introduced in the 98th Congress at the request of then-President Reagan and have reintroduced every Congress since.

This proposal has received strong support from both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide ''a period of silence . . . for meditation or voluntary prayer'' at the beginning of each day. As I stated when that opinion was issued and repeat again: the Supreme Court has too broadly interpreted the Establishment Clause of the First Amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the Free Exercise Clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: ''We are a religious people whose institutions presuppose a Supreme Being.'' Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation ''under God.'' Our currency is inscribed with the motto, ''In God We Trust''. In this Body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers. I would note that this practice has been upheld as constitutional by the Supreme Court.

It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this legislation during this Congress.

I ask unanimous consent that the legislation be printed in the RECORD.

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

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

''ARTICLE —

''Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.''.

SENATE RESOLUTION 11—EXPRESSING THE SENSE OF THE SENATE REAFFIRMING THE CARGO PREFERENCE POLICY OF THE UNITED STATES

Mr. INOUYE submitted the following resolution; which was referred to the committee on Commerce, Science, and Transportation:

S. Res. 11

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to carry a substantial portion of the international waterborne commerce of the United States;

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to serve as a fourth arm of defense in time of war and national emergency;

Whereas the Federal Government has expressly recognized the vital role of the United States merchant marine during Operation Desert Shield and Operation Desert Storm;

Whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States-flag merchant marine by requiring a certain percentage of government-impelled cargo to be carried on United States-flag vessels;

Whereas when Congress enacted the cargo reservation laws, Congress contemplated that Federal agencies would incur higher program costs to use the United States-flag vessels required under those laws;

Whereas section 2631 of title 10, United States Code, requires that all United States military cargo be carried on United States-flag vessels;

Whereas Federal law requires that cargo purchased with loan funds and guarantees from the Export-Import Bank of the United States established under section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635), be carried on United States-flag vessels;

Whereas section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), requires that at least 50 percent of the gross tonnage of ocean-borne cargo generated directly or indirectly by the Federal Government be carried on United States-flag vessels, and section 901b of that Act (46 U.S.C. App. 1241f) requires that, in the case of such cargoes of certain agricultural commodities that are the subject of an export activity of the Commodity Credit Corporation or the Secretary of Agriculture, an additional 25 percent of the gross tonnage be carried on United States-flag vessels;

Whereas cargo reservation programs are very important for the shipowners of the United States, which require compensation for maintaining a United States-flag fleet;

Whereas the United States-flag vessels that carry reserved cargo provide high-quality jobs for seafarers of the United States;

Whereas, according to the most recent statistics from the Maritime Administration, in 1997, cargo reservation programs generated $900,000,000 in revenue to the United States-flag fleet and accounted for one-third of all revenue from United States-flag foreign trade cargo;

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to the cargo reservation laws is declining and will continue to decline;

Whereas, in 1970, Congress found that the degree of compliance by Federal agencies with the requirements of the cargo reservation laws was chaotic and uneven, and that it varied from agency to agency;