with respect to the People's Republic of China; to the Committee on Foreign Relations.

EC–395. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning Turkmenistan and the Republic of Tajikistan; to the Committee on Foreign Relations.

EC–396. A communication from the Assistant Director for Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled ''Waivers of Rights and Claims; Tender Back of Consideration'' (RIN3046–AA68) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–397. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''State Vocational Rehabilitation Services Program (Extended Employment/Employment Outcome)'' (RIN1820–AB52) received on January 23, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–398. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on Appropriations.

EC–399. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Sequestration Update Report for Fiscal Year 2001; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; the Judiciary; Health, Education, Labor, and Pensions; Small Business; Veterans' Affairs; Intelligence; Indian Affairs; and Rules and Administration.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. MURKOWSKI for the Committee on Energy and Natural Resources.

Gale Ann Norton, of Colorado, to be Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. WELLSTONE:

S. 161. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

By Ms. COLLINS (for herself and Mr. KERRY):

S. 162. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. TORRICELLI):

S. 163. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex national origin, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, and Mr. ROCKEFELLER):

S. 164. A bill to prepare tomorrows teachers to use technology through pre-service and in-service training, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 165. A bill to amend the Agriculture Market Transition Act to increase loan rates for marketing assistance loans for each of the 2001 and 2002 crops, to make nonrecourse marketing assistance loans and loan deficiency payments available to producers of dry peas, lentils, chickpeas, and rye, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 166. A bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. CRAIG, Mr. DOMENICI, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. LOTT, and Mr. SESSIONS):

S. 167. A bill to allow a State to combine certain funds to improve the academic achievement of all its students; to the Committee on Health, Education, Labor, and Pensions.

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

S. 168. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kazakhstan; to the Committee on Finance.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mrs. BOXER):

S. 169. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal criminal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. HUTCHINSON, Ms. LANDRIEU , Mr. DORGAN, Mr. CONRAD, Mr. JOHNSON, Mr. MCCAIN, Mr. BINGAMAN, Mr. INOUYE, Mr. SHELBY, Ms. SNOWE, and Mr. DASCHLE):

S. 170. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. BAUCUS, and Mr. DURBIN):

S. 171. A bill to repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mr. SMITH of Oregon:

S. 172. A bill to benefit electricity consumers by promoting the reliability of the bulk-power system; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 173. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers; to the Committee on Finance.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. BOND, Mr. WELLSTONE, Mr. CLELAND, Ms. LANDRIEU, Mr. HARKIN, Mr. LEVIN, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. ENZI, Mr. KOHL, and Mr. JOHNSON):

S. 174. A bill to amend the Small Business Act with respect to the microloan program, and for other purposes; to the Committee on Small Business.

By Mrs. HUTCHISON:

S. 175. A bill to establish a national uniform poll closing time and uniform treatment of absentee ballots in Presidential general elections; to the Committee on Rules and Administration.

By Mrs. HUTCHISON:

S. 176. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. BAYH, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. GRASSLEY, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. MCCAIN, Mr. MILLER, Mr. MURKOWSKI, Mr. REID, Mr. TORRICELLI, and Mr. WARNER):

S. Con. Res. 3. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 161. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

Mr. WELLSTONE. Mr. President, today I am introducing legislation to make the Violence Against Women Office a permanent office in the Department of Justice. After the passage of the Violence Against Women Act in 1994, the U.S. Department of Justice administratively created the Violence Against Women Office. Over time, the office's duties and responsibilities have included administering Violence Against Women Act grant programs, providing technical assistance and training to improve justice system responses in communities across the country, and providing leadership in developing the Administration's policies on violence against women. Led by a Presidentially-appointed Director, the Violence Against Women Office has had an enormous impact on social attitudes in this country about the nature

and effects of domestic violence, sexual assault, and stalking. As a result of the office's high profile work, the urgent issue of violence against women has come into much sharper public focus.

Making permanent the Violence Against Women Office in the Justice Department is necessary to extend VAWA's benefits to all corners of the country. The office has been the leader in promoting a multi-disciplinary, community-coordinated system response to violence against women. Additionally, it has a specialized knowledge of the best practices in the field to ensure that the grant funds are well utilized. A statutory mandate would guarantee that the Violence Against Women Office will continue this specialized work in future Administrations, ensuring that Congress' goals regarding domestic violence, sexual assault, and stalking will be carried out with the same professional expertise that we have grown to appreciate over the past six years.

This office is needed now more than ever. Violence against women continues to ravage our society. In my own state, 40 women were murdered by their partners in the year 2000 alone. This is more than in any other year on record. Nationally, a woman is battered every 15 seconds and 25 percent of women surveyed reported rape or physical abuse by a current or former spouse, partner or date.

The effects of these crimes extend far beyond the moment when they occur. One of the most compelling marks that violence against women leaves is on our children. It is estimated that between 3 and 10 million children witness violence in the home each year, and much of this violence is persistent.

Studies indicate that children who witness their fathers beating their mothers suffer emotional problems, including slowed development and feelings of hopelessness, depression, and anxiety. Many of these children exhibit more aggressive, anti-social, and fearful behaviors. Even one episode of violence can produce post-traumatic stress disorder in children.

It is indisputable that even one incident of abuse inflicts a pain on our children that is unimaginable and often unending. It is also indisputable that domestic violence is devastating to the economic and physical well-being of women and their families. For example, a study reported on in the St. Paul Pioneer Press found that 57 percent of the women surveyed said they had been threatened to the point that they were afraid to go to school or work. Thirty percent were fired or left a job because of abuse. 25 percent of homeless people on any given night are women and children fleeing domestic abuse. 800,000 women per year seek medical care as a result of injuries sustained in a sexual or physical assault.

As this research indicates, violence against women permeates our society. It feeds on itself and it repeats itself generation after generation. People who try to keep family violence quiet and hidden behind the walls of the home ignore its tragic echoes in our schools, in the workplace and on the streets. The Federal Government must always play a role in combating this insidious epidemic. In the fight against domestic violence, we are at the starting gate. Domestic Violence is not going away and we as policy makers need to keep efforts to combat violence against women at the forefront of our work.

With the Violence Against Women Office's leadership, we will continue to work together to bring justice to millions of women who suffer at the hands of abusers everywhere. Through its work, we will ensure our commitment to arrive at a day when many fewer women are threatened in our schools, in our businesses, on our streets and in our homes. I urge my colleagues to support this critical office and the critical role we in the Federal Government can continue to play in the fight against domestic violence, and I urge them to cosponsor this important measure.

By Ms. COLLINS (for herself and Mr. KERRY):

S. 162. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Commercial Fishermen Safety Act of 2001, a bill to help fishermen purchase the life-saving safety equipment they need to survive when disaster strikes. I am very pleased to be joined by my colleague from Massachusetts, Senator JOHN KERRY, in introducing this legislation. Senator KERRY is a true friend of fishermen and, as ranking member of the Oceans and Fisheries Subcommittee, a leader in the effort to sustain our fisheries and maintain the proud fishing tradition that exists in his State and in mine. The release last summer of the movie ''The Perfect Storm'' provided millions of Americans with a glimpse of the challenges and the dangers associated with earning a living in the fishing industry. Based on a true story, this movie, while very compelling, merely scratches the surface of what it is like to be a modern-day fisherman. Every day, members of our fishing community struggle to cope with the pressures of running a small business, complying with extensive regulations, and maintaining their vessels and equipment. Added to these challenges are the dangers associated with fishing where disaster can strike in conditions that are far less extreme than those depicted by the movie.

Year in and year out, commercial fishing is among our Nation's most dangerous occupations. According to the data compiled by the Coast Guard and the Bureau of Labor Statistics, 536 fishermen have lost their lives at sea since 1994. In fact, with an annual fatality rate of about 140 deaths per 100,000 workers, fishing is 30 times more dangerous than the average occupation.

The year 2000 will always be remembered in Maine's fishing communities as a year marked by tragedy. The year began with the loss of the trawler *Two Friends*, 12 miles off the coast of York, ME, on January 25. Two of the three crew members died in icy waters after their vessel capsized in 16-foot seas. The year concluded with yet another tragedy, the loss of the scallop dragger *Little Raspy* on December 14. Three fishermen died when the 30-foot vessel sank in Chandler Bay near Jonesport, ME. All told, nine commercial fishermen lost their lives off the coast of Maine last year. That exceeded the combined casualties of the 3 previous years.

The death of a 27-year-old fisherman just a few days ago in the Gulf of Maine adds to the grief endured by those in Maine's small, close-knit fishing communities still trying to cope with the tragedies of the last year.

Yet as tragic as the year was, it could have been even worse. Heroic acts by the Coast Guard and other fishermen resulted in the rescue of 13 commercial fishermen off the coast of Maine in the year 2000. In most of these circumstances, the fishermen were returned to their loved ones and families because they had access to safety equipment that made all the difference between life and death.

Shawn Rich, the surviving crew member of the vessel *Two Friends*, was found wearing an immersion suit and clinging to the vessel's emergency position indicating radio beacon, or EPIRB. That equipment is what made the difference for him and allowed him to be rescued. The EPIRB strobe light was spotted by a Coast Guard helicopter despite visibility that was less than a quarter of a mile. His immersion suit, which can extend survival to as many as 6 hours in the icy waters of the North Atlantic, protected the fisherman from water temperatures that would have resulted in death by hypothermia after less than 10 minutes of unprotected exposure.

Coast Guard regulations require all fishing vessels to carry safety equipment. These requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the boat is traveling from shore to fish. Required equipment can include a liferaft that automatically inflates and floats free should the vessel sink; personal flotation devices, or immersion suits which can help protect fishermen from exposure, as well as to increase buoyancy; EPIRBs, which relay a downed vessel's position to the Coast Guard search and rescue personnel; visual distress signals; and fire extinguishers.

This equipment is absolutely critical to surviving an emergency at sea. Maggie Raymond of South Berwick, ME, the owner of the fishing vessel Olympia, put it well when she said:

It is just not possible to overstate the importance of the safety equipment. Along the coast of Maine, fishing communities continue to mourn the nine fishermen lost last year. At the same time, 13 fishermen were saved because they were able to get into a survival suit on time or to get into the liferaft, or because they were found literally clinging to an EPIRB. Without this life-safety equipment, the casualty toll would have been much higher.

When an emergency arises, safety equipment is priceless. At all other times, however, the cost of purchasing or maintaining liferafts, immersion suits, and EPIRBs must compete with essential expenses such as loan payments, wages, fuel, maintenance, and insurance. Meeting all of these obligations is made much more difficult by a regulatory framework that limits the amount of time a fisherman can spend at sea and gear alterations that are used to manage our marine resources.

Most of the fishermen whom I know are more than willing to do their part to sustain our marine resources. But the reality is that when fishermen are required to limit their catch, they are also limited in their ability to generate sufficient income to meet the costs associated with maintaining their vessels. The bill I am introducing today makes it clear that fishermen should not have to compromise their safety in order to make a living in their chosen occupation.

The Commercial Fishermen Safety Act of 2001 lends fisherman a helping hand in preparing in case disaster strikes. My legislation provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit would be capped at $1,500. The items I have mentioned can literally cost thousands of dollars. The tax credit will make this life-saving equipment more affordable for more fishermen who currently face more limited options under the Federal Tax Code.

Safety equipment saves lives in an occupation that has suffered far too many tragedies, far too many losses. By extending a tax credit for the purchase of federally required safety equipment, Congress can help ensure that fishermen have a better chance of returning home each and every time they head out to sea.

I hope as part of our tax deliberations this year this important legislation will be enacted and signed into law.

I yield the floor.

Mr. KERRY. Mr. President, I rise today to co-sponsor the Commercial Fishermen Safety Act of 2001. I would like to thank the Senator from Maine, Ms. COLLINS, for asking me to introduce this bill with her. This legislation would provide fishermen with a tax credit of up to $1,500 for the purchase of safety equipment that will help save lives at sea such as life rafts, immersion suits and Emergency Position Indicating Radio Beacons (EPIRBS).

The U.S. Occupational Safety and Health Administration ranks commercial fishing as the most dangerous occupation in America, with approximately 130 deaths a year per 100,000 employees. Nearly 90 percent of all fishing related deaths result from drowning—whether a fisherman falls overboard by slipping on a wet or icy deck, is washed off deck by a wave or is dragged under by a hook or line. In the cold waters off New England and Alaska, a fisherman who goes overboard without an immersion suit has about 6 minutes to be rescued by his shipmates. But fishermen with fully functional immersion suits and life rafts are more than twice as likely to survive the sinking of their vessel.

The Commonwealth of Massachusetts knows all to well the dangers of commercial fishing. Gloucester is but one example of the toll it has taken on our coastal fishing communities. Since 1650 the sea has claimed an estimated 10,000 Gloucester fishermen. During the 19th Century, Gloucester would typically lose 200 fishermen annually—about 4 percent of the city's population—to storms in the Gulf of Maine and the Grand Banks. Today, even while the National Weather Service provides timely and accurate forecasts so that we no longer have entire fleets caught on the fishing grounds during a major storm, the tragic statistics continue to roll in.

The shocking loss of 11 fishermen in the Mid-Atlantic in two short months during 1998–1999 was unfortunately not an anomaly, but typical of historic trends, according to a Fishing Vessel Safety Task Force convened to investigate the problem. The Task Force also determined the common conditions in these accidents were poor vessel or equipment condition and inadequate preparation for emergencies—including basic equipment like life rafts, EPIRBs, and immersion suits. Confirming the Task Force's observations, last year the First Coast Guard District—whose area of responsibility stretches from Maine to New Jersey —reported the death of 13 commercial fishermen. In addition, the District reported saving 47 fishermen whose vessels had either sunk or caught fire. The Coast Guard estimates that 23 of those fishermen are alive today because they had a life raft or immersion suit.

While safety is always a concern to our fishermen and their families, the most immediate worry on their minds is declining profits from dwindling stocks and closed areas. In order to meet rebuilding plans for our fish stocks regulators have been forced to implement trip limits and closed areas to rebuild stocks. These measures are working and we are beginning to see some progress in New England. However a few fishermen, primarily in small boats, will travel far out to sea in order to fish outside the closed areas or in a place with a higher trip limit. These fishermen often times cannot afford to replace or inspect old worn out life rafts and immersion suits and place themselves at extreme risk to meet their financial needs. This legislation will help these fishermen put the equipment on their boats now not later and will save lives.

It is important that we act on this legislation, so that we provide a financial incentive to fishermen who are facing financial hardship as their fisheries recover, to invest in the replacement and inspection of their survival gear.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. TORRICELLI):

S. 163. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 2001. I am pleased that my cosponsors in the 106th Congress—Senators LEAHY, KENNEDY and TORRICELLI—have joined with me again in support of this legislation.

This bill addresses the rapidly growing and very troubling practice of employers conditioning employment or professional advancement upon the employees' willingness to submit claims of discrimination or harassment to arbitration. In other words, employees who raise claims of harassment or discrimination must submit those claims to arbitration, foregoing the right to go to court and any other remedies that may exist under the laws of this nation. The right to seek redress in a court of law—including the right to a jury trial—is one of the most basic rights accorded to employees in this nation. In the Civil Rights Act of 1991, Congress expressly created this right to a jury trial for employees when it voted overwhelmingly to amend Title VII of the Civil Rights Act of 1964. But employers are undermining the intent of the Civil Rights Act of 1991 and other civil rights and labor laws, such as the Age Discrimination in Employment Act of 1967, by requiring all employees to submit to mandatory, binding arbitration as a condition of employment or advancement before a claim has arisen.

Increasingly, working men and women are faced with the choice of accepting a mandatory arbitration clause in their employment agreement or no employment at all. Despite the appearance of a freely negotiated contract, the reality often amounts to a non-negotiable requirement that prospective employees relinquish their rights to redress in a court of law. Mandatory arbitration allows employers to tell all current and prospective employees in effect, ''If you want to work for us, you will have to check your rights at the door.'' These requirements have been referred to as ''front door'' contracts: they require an employee to surrender

certain rights in order to ''get in the front door.'' As a nation which values work and deplores discrimination, we should not allow this practice to continue.

How then does the practice of mandatory, binding arbitration comport with the purpose and spirit of our nation's civil rights and sexual harassment laws? The answer is simply that it does not. To address the growing incidents of compulsory arbitration, the Civil Rights Procedures Protection Act of 2001 amends seven civil rights statutes to guarantee that a federal civil rights or sexual harassment plaintiff can still seek the protection of the U.S. courts rather than be forced into mandatory, binding arbitration. Specifically, this legislation affects claims raised under Title VII of the Civil Rights Act of 1965, Section 505 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act and the Federal Arbitration Act, FAA. By amending the Federal Arbitration Act, the protections of this legislation are extended to claims of unlawful discrimination arising under State or local law and other Federal laws that prohibit job discrimination.

This bill is not anti-arbitration, anti-mediation, or anti-alternative dispute resolution. I have long been and will remain a strong supporter of voluntary, alternative methods of dispute resolution that allow the parties to choose whether to go to court. Rather, this bill targets only mandatory, binding arbitration clauses in employment contracts entered into by the employer and employee before a dispute has even arisen.

The 107th Congress marks the fifth successive Congress in which I have introduced this important legislation. In recent years, we have made some advances in addressing the unfair use of mandatory, binding arbitration clauses. As a result of a hearing in the Banking Committee in 1998 and a series of articles and editorials in prominent periodicals, the National Association of Securities Dealers, NASD, agreed to remove the mandatory binding arbitration clause from its Form U–4, which all prospective securities dealers sign as a condition of employment. The NASD's decision to remove the binding arbitration clause, however, does not prohibit its constituent organizations from including a mandatory, binding arbitration clause in their own employment agreements, even if it is not mandated by the industry as a whole. Last spring, the Judiciary Subcommittee on Administrative Oversight and the Courts, chaired by my distinguished colleague from Iowa, Senator GRASSLEY, held a hearing on contractual mandatory, binding arbitration and highlighted the problem in the employment area. These are positive developments, but the trend toward the use of mandatory, binding arbitration clauses continues. A legislative fix is needed.

The Civil Rights Procedures Protection Act restores the right of working men and women to pursue their claims in the venue that they choose, which, in turn, restores the spirit of our nation's civil rights and sexual harassment laws. I ask my colleagues to join me in supporting this important legislation.

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

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

S. 163

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 Procedures Protection Act of 2001''.

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

''SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

''Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

''SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

''Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) is amended by adding at the end the following new subsection:

''(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

''(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

''(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

''(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2651 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

''SEC. 405. EXCLUSIVITY OF REMEDIES.

''Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or a provision of subchapter V of chapter 63, or section 2105, of title 5, United States Code) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.''.

SEC. 9. AMENDMENT TO TITLE 9, UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting ''(a)'' before ''This''; and

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

''(b) This chapter shall not apply with respect to a claim of unlawful discrimination

in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.''.

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising not earlier than the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, and Mr. ROCKEFELLER):

S. 164. A bill to prepare tomorrows teachers to use technology through pre-service and in-service training, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce a bill for consideration in the context of the reauthorization of the Elementary and Secondary Education Act. Earlier this week, I introduced my accountability bill designed to ensure that the taxpayers' investment in education is adequately protected and that the finest education is provided to our children by attaching performance-based accountability to the federal education programs encompassed in the ESEA. I believe the issue of accountability for results will be at the center of our debate this year so I introduced and spoke about that bill separately. Nevertheless, I believe that our efforts to ensure that schools are accountable for the education of our children requires that we provide resources to schools so that they can make full use of available teaching tools. Training teachers to use technology in their classrooms is a high priority in this regard if we are to help our children become full and active members of the global community. The bill I am introducing today addresses that priority. I am pleased that my colleagues Senator COCHRAN and Senator ROCKEFELLER have joined me in cosponsoring this bill that I believe will generate bipartisan support.

Educational technology can enlarge the classroom environment in ways that were unimaginable only a decade ago and can empower students to develop independent thinking and problem solving skills. The Technology for Teachers Act is designed to address the need to provide teachers with the skills to use this valuable resource in the classroom. Experts urge us to increase our investment in training teachers to use technology in the classroom and point out that at least 30 percent of our technology budget should be used for this purpose. Yet few of the nation's teachers have had more than one or two courses in educational technology, and those courses are usually designed as an add-on to other methods courses instead of being well-integrated into their teacher preparation program. The Training for Technology Act would provide grants to consortia of higher education institutions and public school districts so that they can integrate technology into their teacher training programs at the pre-service level. In addition, the bill requires recipients of Technology Literacy Challenge grants—an existing program which I sponsored in the 1994 reauthorization of ESEA—to demonstrate that they are using at lest 30% of their technology funding on in-service training in the use of technology.

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 schools with a comprehensive effort. The bills I have introduced 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. This bill seeks to provide educators with the resources to meet these increased demands. I urge my colleagues to carefully consider supporting passage of this bill.

I ask unanimous consent to have the bill printed in the RECORD.

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

S. 164

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 ''Technology for Teachers Act 2001''.

SEC. 2. LOCAL APPLICATIONS FOR SCHOOL TECHNOLOGY RESOURCE GRANTS.

Section 3135 of the Elementary and Secondary Education Act of 1965 (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. 3. TEACHER PREPARATION.

Part A of title III of the Elementary and Secondary Education Act of 1965 (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.''.

By Mr. DORGAN:

S. 165. A bill to amend the Agriculture Market Transition Act to increase loan rates for marketing assistance loans for each of the 2001 and 2002 crops, to make nonrecourse marketing assistance loans and loan deficiency payments available to producers of dry peas, lentils, chickpeas, and rye, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, I have come to the floor today to talk about farming. The pages of the calendar have now turned. It is a new year, but our family farmers face the same struggle, and in fact, in many ways, the struggle gets worse.

Mr. President, today, I am introducing legislation titled the FARM Equity Act of 2001 that is designed to equalize the presently disparate commodity Marketing Assistance Loan rates of the current farm bill, commonly referred to as Freedom to Farm. The legislation would increase all commodity loan rates up to soybean and minor oilseed loan levels based on historical price ratios amongst the commodities. The FARM Equity Act would also treat all commodities equally in that it would place a price floor under all commodity loan rates, not just a select few.

The FARM Equity Act will leave soybeans at the current loan level—$5.26 per bushel. This price is about 85 percent of the Olympic Average of soybean market prices from the years 1994 to 1998. All other crops will be equalized up to this same price ratio related to each crops respective Olympic Average during the same time period. Equalized loan rates for wheat would be $3.14 per bushel, for corn—$2.09 per bushel, for rice—7.8 cents per pound and for cotton—52.6 cents per pound. All these loan levels would become minimum loan levels.

When Freedom to Farm was passed, supporters intended that this new farm legislation would remove all government interference or influences from planting decisions. ''Let farmers take their cues from the market place'', was heard often during the debate. ''From now on, farmers will not plant their crops with an eye towards Washington—they will plant what the market tells them to plant.''

I doubt anyone believes, let alone could debate the point with a straight face, that this major premise of Freedom to Farm—the notion of market based planting decisions—has become a reality. To the contrary, at the present time, the major influence on what type of seed goes into the ground on our nation's farms is the level of Market Assistance Loan rates available for the various program crops.

There can be no dispute that soybeans, and the other minor oilseed crops, have a much higher loan rate—when compared to historical price ratios—than wheat, corn and the other minor feed grains, cotton and rice. Likewise, there can be no dispute that the unprecedented increase in soybeans and oilseeds acreage seen the last couple of years, is due in large part, to these arbitrarily set unequal loan rates. Farmers have little choice but to plant more acres of oilseeds for the higher loan value, even thought the cash and future markets clearly signal for them to do otherwise.

Does anyone remember ''Green Acres,'' the old TV show from the sixties that poked fun of the city slicker—and country folks, for that matter—who moved out from New York City to start farming? One of the episodes had to do with deciding what crop to plant. I can't remember the exact order of events, but the gist of it was this. Oliver Wendell Douglas—played by Eddie Albert—listened to the market report while having breakfast the morning he was going to start spring planting. The price of corn was up, while soybean prices were down, so Oliver finished breakfast and away he went to the general store to buy some corn seed from Sam Drucker. Oliver then headed out to his field to plant corn.

About noon, Oliver came home for dinner. Now I know to most this meal is lunch, but trust me, on the farm—it is called dinner; farmers also have a meal called supper that takes place in the evening. But, let's get back to Oliver. While he was eating his dinner, the noon markets came on, and wouldn't you know it, corn was down, and soybeans were up. Well, Oliver was all upset, since he had already planted some of the corn.

Lisa, Oliver's wife, told him just exchange the seed for a different kind, ''I always return what I buy back to the stores; why can't you just exchange the corn for some soybeans, if that's what you want to plant now?''

Oliver agreed with his wife, and went out and dug up the corn seed, put it back in the sack, and headed back to the supply store to trade it in for soybeans. Sam Drucker thought he was nuts, of course, and everyone had a good laugh.

Preposterous of course, this parody of farmer indecision where seed is actually picked out of the ground, but I mention this episode only because today, Oliver Wendell Douglas wouldn't have his ear turned to the market reports to decide what to plant. He would simply seed soybeans because everyone knows the loan price is the only price that matters these days.

In fact, one market advisor in the Midwest is promoting a ''Plan B'' this year that encourages farmers to plant even more soybeans than last years record acreage because of the high loan rates in hopes of decreasing corn acres enough to increase those prices. Probably not a bad idea, given the present market prices and high nitrogen costs. But, it's a clear indication of how skewed the present loan levels actually are.

Just how much effect on U.S. crop acres are these unequal loan rates having? We need look no further than the annual acreage reports issued by USDA. In 1994, US farmers planted a little over 61.6 million acres of soybeans. This past year, a record 74.5 million acres were planted to soybeans, an increase of over 20 percent.

For all wheat, USDA tells us the complete opposite is taking place. The acreage planted in the U.S. has declined over 12 percent during this same period, from 70.3 million acres down to 62.5 acres. A few weeks ago, USDA reported that the winter wheat acreage seeded last fall is down 5 percent from the fall before. The 41.3 million acres planted for harvest this coming summer is the smallest acreage devoted to winter wheat since 1971.

To those who will say that we shouldn't change the components of the present Farm Bill in mid-stream, I say, we have repeatedly changed it each of the last three years now. We have had three emergency spending bills due to the low commodity prices. We have changed payment limits on the Loan Deficiency Payments. I might add, equalizing loan rates will do more for medium sized family farms than uncapping LDP limits.

Former Secretary of Agriculture Dan Glickman also used his administrative authority to keep the loan levels at current levels. Just last month, he froze commodity loans at 2000 levels for the 2001 crop. Had he not, the loan for wheat would have fallen to $2.46, while corn would have dropped to $1.76. Even soybeans would have fallen, although not to what the formula calls for. You see, soybeans have a price floor at $4.92 a bushel. If not for this mandated floor specified in the law, the formula in Freedom to Farm would have called for a price of $4.58 per bushel.

Now, I am pleased that the Secretary of Agriculture did this. I found it interesting that I received a few calls from angry farmers when the former Agriculture Secretary froze loan rates for the coming year at 2000 levels. They thought he should have raised them and had determined his actions were vindictive and meant only to keep commodity loans at these low levels. As I have stated, Secretary Glickman prevented present law from dropping loan prices even further.

I don't want to see anymore reductions in loan levels for any of our crops. I want all crops to be treated fairly, and equally. I want all crops to have the same relative level of price protection. And if one or two crops have a loan floor that prevents further erosion in loan protection, then all crops should enjoy such a loan floor. That's why I have introduced this legislation.

This is not to say that the loan levels in this legislation are adequate. They are not. This is only the first step in many that we need to take to fix broken farm policy. And this legislation will put all crops on equal footing as we enter the debate on what will eventually replace Freedom to Farm. I would prefer that loan levels would be higher, that they would reflect the cost of production. Maybe later we can have some common sense farm policy that would do such a thing, but for now, I think this is the least that we should do, as far as loan rates are concerned.

Although it is not mentioned in this legislation, as part of this interim step to preserve our farms, I believe we should restore the automatic 20 percent reduction in Agricultural Market Transition Payments that will take place this year. It should be restored to the 2000 levels for the remaining two years of Freedom to Farm, or until we replace this legislation altogether. I know others are thinking this needs to be done, and I want to go on record as supporting this restoration of AMTA payments.

Before I close, I want to point out the steady erosion of the loan levels for most crops over the years. This year, 2001, if this legislation isn't enacted, the national loan for wheat will stand at $2.58 per bushel. In 1983, the wheat loan was $3.65 per bushel. For corn, the present loan rate is $1.89, while in 1983 it was $2.65 per bushel. For rice, this year's loan is $6.50 per cwt. In 1983, the rice loan was $8.13 per cwt. Cotton's loan this year stands at 52.9 cents per lb. 1982 saw a cotton loan rate of a little over 57 cents per lb.

Now, I saved soybeans until last, for good reason. Of all the major crops, soybeans stand alone in that it has a higher loan rate today, than in the early 1980's. The soybean loan stood at $5.02 twenty years ago, while today, the loan is $5.26. All the other crops dropped, some more than others, percentage wise. All, except for soybeans.

I would also like to point out that the cost of production has skyrocketed for all crops the past twenty years. This year alone, farmers are facing an astronomical increase in anhydrous ammonia prices—the major form of nitrogen fertilizer—due to the skyrocketing natural gas prices. As you may know, natural gas comprises 78 percent of anhydrous' cost of production. Because of this, family farmers in North Dakota, and across the country, are facing a possible doubling of their nitrogen fertilizer costs, from the low $200's per ton last year to well over $400 per ton this year.

The cost of fertilizer is just one of many examples where farm costs have skyrocketed. Others include their crop protection products, insurance costs, machinery costs, etc. The list goes on. No other segment of our economy has been asked to take less and less for their labors.

As I have stated earlier, this legislation, the FARM Equity Act of 2001, is only an interim step. It is not a new farm bill, nor is it the answer to the problems. But I believe we should take action now to equalize the loan rates. Let's pass this legislation that would leave soybeans and other oilseeds at their present loan level while raising other crops up to the same relative level, based on historical market price relationships as soybeans. It is fair. It is equitable. It is the right thing to do.

Mr. President, we have families living all across this country out in the country trying to make a go of it on a family farm: Plant some seeds, raise a crop, then harvest that crop, take it to the grain elevator, and try to raise enough money to keep going and pay the bills.

In addition to having collapsed prices for that which they produce, farmers now see the cost of their inputs dramatically increasing. The cost of anhydrous ammonia, the most popular form of nitrogen fertilizer, is up dramatically because of the spike in natural gas costs.

Farmers are beset in every direction: Monopolies in transportation, near monopolies in the grain trade business, and a collapse of the prices for that which farmers produce. It is an awfully difficult time.

So what can be done about this? My first hope would be that this Congress would rewrite the current farm bill. I do not think it works very well. I do not think we ought to get rid of all of it. The planting flexibility makes sense. Let's keep it. But clearly the current farm bill has not worked very well. Let's rewrite it and provide a price support or a bridge across price valleys for family farmers that give them some hope that if they do a good job, and work hard, they have a chance to survive out on the family farm.

But I am told that rewriting the farm bill is not going to happen this year because it expires at the end of next year. I understand that the chairman of the Agriculture Committee in the Senate does not want to hold hearings on trying to rewrite the farm bill this year. He certainly has the capability of blocking that. I respect him, but I would disagree with him about this issue. But it is likely we will not see progress in rewriting the farm bill this year.

So then, what should we do? In my judgment, we ought to at least take an interim step that would restore some balance to the current price protection that exists, as anemic as it is. We ought to provide some balance and equality to that price protection with respect to those of us who come from the part of the country that produces mostly wheat and feed grains.

We have a circumstance now where the current price support, which is, in my judgment, too low, nonetheless has an inequity about it that offers a price support substantially higher for oil seeds than it does for wheat and feed grains. I am not here to suggest that we take the price support for oil seeds down. I am suggesting that it is unfair to wheat and feed grains and we ought to bring their price support up to provide some equity and fairness. And there is a way to do that.

I would like to show a couple charts of what has been happening. This chart shows crop acres. You can see, going back to 1994, that soybean acreage is increasing and wheat acreage is declining, both substantially.

What is happening this year is, a number of farmers are making decisions about what to plant, and it has nothing to do with what the markets suggest they should plant. It has to do with what their lender would calculate is best for them to plant given the farm program price support loan levels of the various crops. The loan deficiency payment for oil seeds is much higher than for wheat and feed grains on a comparable basis, because the loan levels that determine the loan deficiency payments are likewise, much higher for oil seeds than the other crops. So the result is, they are making planting decisions, once again, based on the farm bill rather than on the market. It is because we have inequitable price support programs. You can see what has happened with the loan rates over time. With soybeans, loan rates have increased slightly over the last twenty years, while wheat, corn and other feed grain loan rates have declined substantially during the same time period.

My point is this. We ought to be able to provide equity in these loan rates by

bringing the loan rate for wheat and feed grains up to an equitable level relative to oilseed levels. Doing so would, likewise, provide an equitable loan deficiency payment for all crops and would stop this calculation of, What should I plant relative to what the farm program thinks I should plant?

As Freedom to Farm passed, its supporters were saying: Let's have the market system send signals on what ought to be planted. That is not happening at the moment. It is the farm program that is determining what is being planted because of the skewed loan support prices. It is the farm program that is actually promoting that incentive to plant one thing versus another thing. I am not suggesting we fix it by reducing the loan rate or the loan deficiency payment for oilseeds. We ought not do that. We ought to bring the loan rate for the others up because those levels are too low, when compared to oilseeds. It is unfair to them.

Some will remember the old television program ''Green Acres'' from long ago in the 1960s. Eddie Albert played a character named Oliver Wendell Douglas, who had a pig named Arnold. He was a city slicker who moved to the country. It was a television program that poked fun at both the city slicker and maybe also at country folks. It was a comedy.

In one episode, Oliver is having breakfast one morning. He is trying to figure out what to plant. He hears the morning grain market report on the radio, and the price of soybeans was going down and the price of corn was going up. So he decided to go down to the general store and get himself some corn seed. All morning he planted corn.

At noon, Oliver came in for dinner. Back home they call it dinner in the middle of the day; some people call it lunch, but we call it dinner. He came back for dinner and discovered on the radio that the price of corn was down and the price of soybeans was up, according to the noon market report. And he said to his wife: It is kind of hard to figure out what to do here. I just planted corn because the radio said corn was up. Now corn is down, soybeans are up.

His wife said: When I go to the store and get something that doesn't work, I take it back.

So this old character on ''Green Acres'' went out to the field, walked down the furrows and pulled out all of his corn seeds and went back to the store to trade them in for soybean seed. Of course, the old boy who ran the store that sold him the seed thought he was pretty goofy.

My point about this story is, Oliver Douglas wouldn't have to listen, under today's circumstances, to the radio market reports to evaluate what he ought to plant, to find out what is down or what is up. In today's circumstances, when you take a look at the farm program, what is up is a better loan rate for oilseeds, and what is down is an anemic loan rate for wheat and feed grains.

What can be done about that? Bring wheat and feed grain loan rates up to where they ought to be. That only brings wheat to $3.14 a bushel, but it is a far sight better than where it is today, at $2.58.

So today, I am introducing a piece of legislation that equalizes loan rates. It will not penalize oilseeds. It will leave them where they are. Good for them; I want that. I support that and will fight for that. But it will take the loan rate for other program crops, including wheat, corn, and rice, cotton, and put those loan rates where they ought to be relative to some equity vis-a-vis oilseeds.

I am going to include in the RECORD a list of all the program crops and where I propose we establish their loan rates. The loan rates for the various crops were determined by fixing them at the same percentage of their 1994–1998 5-year Olympic Average of market prices as the soybean loan rate is with respect to its 1994–1998 5-year Olympic Average of market prices.

This is only an interim step. We must do much more, and I have other ideas on what we ought to do. But for now, at least as a first step, let's provide some fairness for those who are producing wheat and feed grains.

Mr. President, I ask unanimous consent to print in the RECORD the Olympic Average price data to which I referred.

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

FAMILY AGRICULTURE RECOVERY & MARKET (FARM) EQUITY ACT OF 2001

For the 2001 & 2002 Crop Year, The ''FARM Equity'' Act would:

Equalize the Marketing Loan rate for commodities relative to the current soybean rates. Wheat—$3.14; corn—$2.09; soybeans (unchanged)—$5.26; cotton—$58.26/cwt.; rice—$7.81/cwt.; base other feed grain loan rates on their own price history rather than based off the corn rate. Barley—$2.01; oats—$1.27; grain sorghum—$1.89; base other oil seed rates off their own price history rather than the soybean loan rate. Oil sunflower—$.0930/lb.; confection sunflower—$.1176/lb.; canola—$.0945/lb.; safflower—$.1259/lb.

Place a floor under all commodity loan rates, not just soybean, cotton and rice loan rates.

Remove the cap on all commodity loan rates and allow them to increase if the most recent five year Olympic Average of prices of a commodity increases to a level that warrants such an increase.

Remove the incentive to continue the obvious current prevalent practice of planting for the commodity loan rate, and thus the overproduction of commodities (oilseeds) that have significantly higher loan rates relative to the actual historical market price ratios.

Keep AMTA payments in place, along with all present payment limitations.

Enable farmers to practice agronomically sound rotations rather than planting for the government loan.

Place all commodities on a level playing field with regards to loan rates prior to the debate about the next farm bill.

Add dry peas, lentils, chickpeas and rye to the list of crops eligible for Marketing Assistance Loans, increasing the rotational choices for farmers in the Pacific Northwest.

HOW WERE THE NEW LOAN PRICES ARRIVED AT?

The 1994–1998 Olympic Average price for a bushel of soybeans is $6.22, as determined by USDA. The present Freedom To Farm loan level for soybeans is $5.26. This is 84.5 percent of the 94–98 Oly price average.

The loan prices for the other crops listed in the FARM Equity Act were derived by taking the soybean factor—84.57%—against the other crops' 94–98 Olympic Price averages.

Oil Sunflowers and Flaxseed were left at the present $.0930 per lb. since applying the factor against their Olympic Price averages would have lowered their loan rate—an occurrence that no farm advocate wants for any crop during these hard times down on the farm.

The ''94–98'' time frame was used, since the seeding distortions and subsequent price distortions caused by Freedom to Farm's disparate loan rates had not yet infected the moving 5 yr. average.

Find below the loan levels: Marketing Loan Rates were determined by their price history during the years 1994 through 1998

Crop	F2F loan rates	''94–98'' Olympic price average	Equalized loans
Wheat	$2.58	$3.71	$3.14
Corn (bus)	1.89	2.47	2.90
Grain Sorghum (bus)	1.71	2.23	1.89
Barley (bus)	1.61	2.38	2.01
Oats (bus)	1.16	1.50	1.27
Upland Cotton (lb)	0.5192	0.6883	0.5826
EL Staple Cotton (lb)	0.7965	1.0360	0.8761
Rice (cwt)	6.50	9.23	7.81
Soybeans (bus)	5.26	6.22	5.26
Oil Sunflower (lb)	0.0930	0.1060	0.0930
Nonoil Sunflower (lb)	0.0930	0.1390	0.1176
Canola (lb)	0.0930	0.1117	0.0945
Rapeseed (lb)	0.0930	0.1183	0.1001
Safflower (lb)	0.0930	0.1487	0.1259
Mustard Seed (lb)	0.0930	0.1390	0.1176
Flaxseed (lb)	0.0930	0.0963	0.0930
Rye (bus)	[1]	.....	2.80
Dry Peas (cwt)	[1]	.....	7.00
Lentils (cwt)	[1]	.....	12.00
Chickpeas (cwt)	[1]	.....	15.00

[1] Not available.

Mr. DORGAN. It is all about fairness and equity. Under the current program, even though all of the support prices are too low, wheat and feed grains are being treated unfairly and ought to be brought up to where they should be and we would have a right to expect them to be. I have included all of the significant numbers and support price proposals in the RECORD. I hope my colleagues will join me in seeing if we can at least take an interim step and pass 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. 165

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 ''Family Agriculture Recovery and Market (FARM) Equity Act of 2001''.

SEC 2. 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 not less than—

''(1) 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(2) $3.14 per bushel.

''(b) FEED GRAINS.—

''(1) CORN.—The loan rate for a marketing assistance loan under section 131 for corn shall be not less than—

''(A) 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(B) $2.09 per bushel.

''(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 at which loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

''(B) MINIMUM LOAN RATES.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be not less than—

''(i) 85 percent of the simple average price received by producers of grain sorghum, barley, and oats, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of grain sorghum, barley, and oats, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(ii)(I) in the case of grain sorghum, $1.89 per bushel;

''(II) in the case of barley, $2.01 per bushel; and

''(III) in the case of oats, $1.27 per bushel.

''(c) UPLAND COTTON.—

''(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States, a rate that is not less than the lesser of—

''(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1 3/32-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference, during the period April 15 through October 15 of the year preceding the year in which the crop is planted, between the average Northern European price quotation of that quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

''(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.5826 per pound.

''(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be not less than—

''(1) 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(2) $0.8768 per pound.

''(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be not less than—

''(1) 85 percent of the simple average price received by producers of rice, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(2) $7.81 per hundredweight.

''(f) OILSEEDS.—

''(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be not less than—

''(A) 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(B) $5.26 per bushel.

''(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 not less than—

''(A) 85 percent of the simple average price received by producers of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(B)(i) in the case of oil sunflower seed, $0.093 per pound;

''(ii) in the case of nonoil sunflower seed, $0.1176 per pound;

''(iii) in the case of canola, $0.0945 per pound;

''(iv) in the case of rapeseed, $0.1001 per pound;

''(v) in the case of safflower, $0.1259 per pound;

''(vi) in the case of mustard seed, $0.1176 per pound; and

''(vii) in the case of flaxseed, $0.093 per pound.

''(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 that the rate for the oilseeds (other than cottonseed) shall not be less than the rate established for soybeans on a per-pound basis for the same crop.''.

SEC. 3. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR DRY PEAS, LENTILS, CHICKPEAS, AND RYE.

(a) DEFINITION OF LOAN COMMODITY.—Section 102(10) of the Agricultural Market Transition Act (7 U.S.C. 7202(10)) is amended by striking ''and oilseed'' and inserting ''oilseed, dry peas, lentils, chickpeas, and rye''.

(b) AVAILABILITY OF NONRECOURSE LOANS.—Section 131(a) of the Agricultural Market Transition Act (7 U.S.C. 7231(a)) is amended in the first sentence by inserting after ''each loan commodity'' the following: ''(other than dry peas, lentils, chickpeas, and rye) and each of the 2001 and 2002 crops of dry peas, lentils, chickpeas, and rye''.

(c) LOAN RATES.—Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) (as amended by section 2) is amended by adding at the end the following:

''(g) DRY PEAS, LENTILS, CHICKPEAS, AND RYE.—The loan rate for a marketing assistance loan under section 131 for dry peas, lentils, chickpeas, and rye, individually, shall be not less than—

''(1) 85 percent of the simple average price received by producers of dry peas, lentils, chickpeas, and rye, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of dry peas, lentils, chickpeas, and rye, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

''(2)(A) in the case of dry peas, $7.00 per hundredweight;

''(B) in the case of lentils, $12.00 per hundredweight;

''(C) in the case of chickpeas, $15.00 per hundredweight; and

''(D) in the case of rye, $2.80 per bushel.''.

(d) REPAYMENT OF LOANS.—Section 134(a) of the Agricultural Market Transition Act (7 U.S.C. 7234(a)) is amended—

(1) by striking ''AND OILSEEDS.—'' and inserting ''OILSEEDS, DRY PEAS, LENTILS, CHICKPEAS, AND RYE.—''; and

(2) by striking ''and oilseeds'' and inserting ''oilseeds, dry peas, lentils, chickpeas, and rye''.

(e) PAYMENT LIMITATION.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) is amended by striking ''contract commodities and oilseeds'' and inserting ''contract commodities, oilseeds, dry peas, lentils, chickpeas, and rye''.

SEC. 4. APPLICABILITY.

This Act and the amendments made by this Act 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) (as amended by section 3(a))).

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 166. A bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased today, along with Senator SESSIONS of Alabama, to reintroduce the James Guelff Body Armor Act for the fourth consecutive Congress.

This bill closes a glaring gap in our criminal law that permits individuals with even the grimmest history of criminal violence to use body armor. It is unquestionable that criminals with violent intentions are more dangerous when they are wearing body armor, and are more difficult for police to disarm and disable.

This bill is named in memory of San Francisco Police Officer James Guelff. On November 13, 1994, Officer Guelff was shot to death in a fire-fight by a

heavily armed gunman wearing a bullet-proof vest and kevlar helmet on a major street corner in San Francisco. Because of his protective gear, the assailant was subsequently able to hold off over a hundred police officers.

California is not the only state where heavily armored criminals have assaulted police officers and the community.

In 1999, Officer James Snedigar of the Chandler, Arizona Police department was shot and killed by a gunman firing an AK–47 who was also protected by a kevlar vest.

In March of 2000, Deputy Ricky Kinchen of Atlanta, Georgia, was killed in a shootout with a gunman who wore a bulletproof vest.

On July 15, 2000, Sergeant Todd Stamper of the Crandon, Wisconsin police department, was killed in a gun fight by a heavily armed man wearing a kevlar helmet and body armor.

Lee Guelff, James Guelff's brother, wrote to me about the need to revise the laws relating to body armor. His words eloquently explain the need for the legislation:

> It's bad enough when officers have to face gunmen in possession of superior firepower. * * * But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

Our laws need to recognize that body armor in the possession of a criminal is an offensive weapon. Police officers serving on the streets should have ready access to body armor, and hardened-criminals need to be deterred from using it.

The James Guelff Body Armor Act of 2001 has three key provisions. First, it directs the United States Sentencing Commission to develop a penalty enhancement for criminals who commit violent crimes while wearing body armor. Second, it prohibits violent felons from purchasing, using, or possessing body armor. Third, this bill enables Federal law enforcement agencies to directly donate surplus body armor to local police. I will address each of these three provisions.

I. Enhanced criminal penalties for wearing body armor during violent crimes.—Criminals who wear body armor while engaged in violent crimes deserve enhanced penalties because they pose an enhanced threat to police and civilians alike. Assailants shielded by body armor can shoot at the police and civilians with less fear than individuals not so well protected.

The James Guelff Body Armor Act directs the United States Sentencing Commission to develop an appropriate sentence enhancement for wearing body armor during a violent crime. The bill also expresses the Sense of the Senate that any enhancement should be at least two levels.

II. Prohibiting violent felons from wearing body armor.—This section makes it a crime (up to three years in jail) for individuals with a violent criminal record to wear, possess, or own body armor. It is unconscionable that criminals can obtain and wear body armor without restriction when so many of our police lack comparable protection.

To account for those rare circumstances when a felon may need body armor as part of a lawful occupation, the section provides an affirmative defense against prosecution if the felon wore armor after obtaining permission from employer, and possession of armor was necessary for safe performance of lawful business activity.

III. Direct donation of body armor.—The James Guelff Body Armor Act of 2001 also empowers Federal agencies to expedite the donation of body armor to local police departments.

Far too many local police officers do not have access to bullet-proof vests. The United States Department of Justice estimates that 25% of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Supplying local police officers with more body armor will save lives. According to the Federal Bureau of Investigation, greater than 30% of the approximately 1,300 officers killed by guns in the line of duty since 1980 could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest. Body armor saves an estimated 150 police officers' lives each year.

The James Guelff Body Armor Act is backed by law enforcement officers all across America. Organizations representing over 500,000 police officers have endorsed the legislation. These organizations include the Fraternal Order of Police, the National Sheriff's Association, the National Association of Black Law Enforcement Executives, the National Troopers Coalition, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the Police Executive Research Forum, the National Association of Police Organizations, and the International Association of Police Chiefs.

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

Mr. SESSIONS. Mr. President, I rise today to join my colleague from California, Senator FEINSTEIN, in sponsoring the James Guelff Body Armor Act of 2001.

This legislation is intended to deter criminals from wearing body armor and to empower Federal law enforcement agencies to donate surplus body armor to State and local police departments.

This bipartisan legislation is named in honor of James Guelff, a California police officer who was murdered in the line of duty by an assailant wearing body armor and a bulletproof helmet.

As a Federal prosecutor for fifteen years, I developed a deep appreciation for the threats that our law enforcement officers face day to day as they wage the war on crime. In my home State of Alabama, Etowah County Officer Chris McCurley was murdered and Officer Gary Entrekin was critically injured in 1997 during a shootout with two criminals shielded by body armor. This bill will make criminals like these pay an extra price for using body armor while harming innocent, law-abiding people.

The James Guelff Body Armor Act addresses the abuse of body armor in three ways:

First, the bill directs the United States Sentencing Commission to amend the Sentencing Guidelines to include an enhancement for the use of body armor during a violent crime or a drug crime. Thus, criminals who use body armor while attacking law enforcement officers or civilians will spend longer terms in prison.

Second, the bill prohibits a person who has been convicted of a violent felony from purchasing, owning, or possessing body armor. Once a criminal has shown a propensity to violent action, he should not be able to use body armor to commit another crime and perhaps evade capture by the police.

Third, the bill enables Federal law enforcement agencies to donate surplus body armor, currently totaling approximately 10,000 vests, directly to State and local law enforcement agencies. By protecting our police officers, sheriffs' deputies, and other State and local law enforcement officers with body armor, we can help ensure that more cops come home to their families at the end of their day.

It is indisputable that getting our law enforcement officers more body armor will save lives. According to the Federal Bureau of Investigation, more than 30 percent of the officers killed by firearms in the line of duty since 1980 could have survived had they been wearing body armor.

In a survey of American voters in 1999 by the National Association of Police Organizations, 83 percent supported passing laws to keep felons from wearing body armor during the commission of crimes. This is why a broad bipartisan group of law enforcement organizations support this bill including: the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the International Association of Chiefs of Police, the Federal Law Enforcement Officers Association, the National Association of Police Organizations, the International Brotherhood of Police Officers, and the National Sheriffs Association.

Last year, a very similar bill passed the Senate Judiciary Committee unanimously. It passed the entire Senate unanimously. It is time for Congress to act and to protect our law enforcement officers.

I call on my colleagues in the Senate, including Senator FEINSTEIN, to join me, and the law enforcement community in supporting this important legislation that will save lives and provide

law enforcement officers with more protection in their fight against the most violent criminals.

By Mr. FRIST (for himself, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. CRAIG, Mr. DOMENICI, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. LOTT, and Mr. SESSIONS):

S. 167. A bill to allow a State to combine certain funds to improve the academic achievement of all its students; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to introduce the Academic Achievement for All Act. I am honored to introduce this legislation.

We begin this 107th Congress with the great opportunity to dramatically shape and change the federal government's role in education. Never before have the American people been so focused on the education system. With that focus comes great expectations. As a Congress, we must seize this opportunity and work together to creatively improve how the federal government addresses education within our country.

We must continue the push to cut red tape and remove overly-prescriptive federal mandates on federal education funding. At the same time, we must hold states and local schools accountable for increasing student achievement. Flexibility combined with accountability, must be our objective. The end result of our reform effort must spark innovation—innovation designed to provide all students a world-class education.

As the chairman of the Senate Budget Committee Task Force on Education, I heard from almost every witness, both Democrats and Republicans alike, how the sprawling, duplicative and unfocused behemoth that is the current federal education establishment ties the hands of state and local school administrators, teachers and principals with its burdensome regulations and rigidity. As a result, the very first recommendation of the Education Task Force Interim Report was to consolidate federal education programs.

The number one recommendation read as follows:

> In light of the continuing proliferation of federal categorical programs, the Task Force recommends that federal education programs be consolidated . . . The Task Force particularly favors providing states flexibility to consolidate all federal funds into an integrated state strategic plan to achieve national educational objectives for which the state would be held accountable.

In hopes of improving federal regulation of education as we currently know it, Senators GORTON, GREGG, HUTCHINSON, SESSIONS and I worked last year to create this bill. We decided to combine all of our good ideas into Straight A's. Straight A's permits states to have the option of submitting a performance agreement, setting specific and measurable performance goals that could be reached at the end of five years, in exchange for flexibility.

Straight A's is an optional program. States would still be free to administer federal education programs under the current system if they so desired. If states choose to participate in the program, they would be allowed to combine Federal K–12 funds in exchange for flexibility upon approval of their performance agreement. States can focus more funds on disadvantaged students, teacher professional development, reducing class size, technology, or improved school facilities. At the end of five years, however, the state's efforts must increase the achievement of all students, including the lowest performing students.

If states do not substantially meet those goals, they would lose their Straight A's status, and they would have to return to the less flexible regulated approach available under current law. If states do well and significantly reduce achievement gaps between high and low performing students, they will be rewarded with additional funds. Additionally, school districts would not lose any Title I funding. If Title I is included by a state, each school district in the state would be assured of receiving at least as much money as they received in the preceding fiscal year.

States and local school districts are innovative. Without question, it is states and localities that today are serving as the engines for change in education. The groundwork for success is already in place at the local level—teachers, parents, principals, and communities demonstrate on a daily basis the enthusiasm and desire to succeed. However, flexibility at the state and local level is critical to the success of our schools.

Although the federal government is prepared to assist in improving America's schools, it is worth remembering the limitations of the federal role in education. The federal government provides just 7 percent of education funding. But despite its limitations, the federal government does have a role to play in revitalizing education. The federal government can provide the focus and leadership to identify those problems worthy of the collective energy of all Americans, and it can commit resources to the states to supplement their efforts.

But along with the resources, the federal government must also give states and localities the freedom to pursue their own strategies for implementation. With respect to education, tactics and implementation procedures are virtually dictated by the federal government. The rationale for expanding an already overly large and burdensome federal education establishment is simply not discernible. Instead, the states should have the flexibility to put together state strategic plans. Under such a plan, the states would establish concrete educational goals and timetables for achievement. In return, they would be allowed to pool federal funds from categorical programs and spend these consolidated resources on state established priorities.

But, along with flexibility comes accountability. When we give states and local education agencies the freedom to use funds in the way that best meets the needs of their students, we must expect from them increased student performance. For too long accountability has been measured by quantitative measures rather than qualitative ones. We know that we are spending $8 billion on Title I—the nation's largest federal education program—to help disadvantaged children. But we do not know if all that money is helping those students to learn. This must change.

Our current system simply requires that you send the money to poor schools. I believe that there is no better catalyst for reform, no better way to ensure that poor children receive the same quality of education as their wealthier counterparts—than requiring that states demonstrate that their poor children are achieving.

The flexibility is needed to allow states to use whatever means necessary to increase poor students' achievement. Unfortunately, after 34 years and $120 billion spent on Title I, 70 percent of children in high poverty schools score below even the most basic level of reading. In math, 4th graders in high poverty schools remain 2 grade levels behind their peers in low poverty schools. In reading, they remain 3 to 4 grade levels behind.

As a scientist, I know the value of looking for new way to solve problems, and America has long had a proud tradition of innovation. This bill will create a whole new generation of inventors in the field of education—in particular, Governors, local school boards, teachers, and parents will be better able to put good ideas into practice.

I strongly urge passage of this important piece of 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. 167

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 ''Academic Achievement for All Act'' or ''Straight A's Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to create options for States and communities—

(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

(3) to empower parents and schools to effectively address the needs of their children and students;

(4) to give States and communities maximum freedom in determining how to boost

cation programs;

(6) to hold States and communities accountable for boosting the academic achievement of all students, especially disadvantaged children; and

(7) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

SEC. 3. PERFORMANCE AGREEMENT.

(a) PROGRAM AUTHORIZED.—States may, at their option, execute a performance agreement with the Secretary under which the provisions of law described in section 4(a) shall not apply to such State except as otherwise provided in this Act. The Secretary shall execute performance agreements with States that submit approvable performance agreements under this section.

(b) LOCAL INPUT.—States shall provide parents, teachers, and local schools and school districts notice and opportunity to comment on any proposed performance agreement prior to submission to the Secretary as provided under general State law notice and comment provisions.

(c) APPROVAL OF PERFORMANCE AGREEMENT.—A performance agreement submitted to the Secretary under this section shall be considered as approved by the Secretary within 60 days after receipt of the performance agreement unless the Secretary, before the expiration of the 60-day period, provides a written determination to the State that the performance agreement fails to satisfy the requirements of this Act.

(d) TERMS OF PERFORMANCE AGREEMENT.—Each performance agreement executed pursuant to this Act shall comply with the following provisions:

(1) TERM.—The performance agreement shall contain a statement that the term of the performance agreement shall be 5 years.

(2) APPLICATION OF PROGRAM REQUIREMENTS.—The performance agreement shall contain a statement that no program requirements of any program included by the State in the performance agreement shall apply, except as otherwise provided in this Act.

(3) LIST OF PROGRAMS.—The performance agreement shall provide a list of the programs that the State wishes to include in the performance agreement.

(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.— The performance agreement shall contain a 5-year plan describing how the State intends to combine and use the funds from programs included in the performance agreement to advance the education priorities of the State, improve student achievement, and narrow achievement gaps between students.

(5) ACCOUNTABILITY SYSTEM REQUIREMENTS.—If the State includes any of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) in the State's performance agreement, the performance agreement shall include a certification that the State has—

(A)(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b) of such Act (20 U.S.C. 6311(b)); or

(ii) developed and implemented a system to measure the degree of change from one school year to the next in student performance;

(B) developed and is implementing a statewide accountability system that has been or is reasonably expected to be effective in substantially increasing the numbers and percentages of all students who meet the State's proficient and advanced levels of performance;

(C) established a system under which assessment information may be disaggregated within each State, local educational agency, and school by each major racial and ethnic group, gender, English proficiency status, migrant status, and by economically disadvantaged students as compared to students who are not economically disadvantaged (except that such disaggregation shall not be required in cases in which the number of students in any such group is insufficient to yield statistically reliable information or will reveal the identity of an individual student);

(D) established specific, measurable, numerical performance objectives for student achievement, including a definition of performance considered to be proficient by the State on the academic assessment instruments described in subparagraph (A); and

(E) developed and implemented a statewide system for holding its local educational agencies and schools accountable for student performance that includes—

(i) a procedure for identifying local educational agencies and schools for improvement, using the assessments described in subparagraph (A);

(ii) assisting and building capacity in local educational agencies and schools identified for improvement to improve teaching and learning; and

(iii) implementing corrective actions after not more than 3 years if the assistance and capacity building under clause (ii) is not effective.

(6) PERFORMANCE GOALS.—

(A) STUDENT ACADEMIC ACHIEVEMENT.—Each State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in its performance agreement shall establish annual student performance goals for the 5-year term of the performance agreement that, at a minimum—

(i) establish a single high standard of performance for all students;

(ii) take into account the progress of students from every local educational agency and school in the State;

(iii) are based primarily upon the State's challenging content and student performance standards and assessments described in paragraph (5);

(iv) include specific annual improvement goals in each subject and grade included in the State assessment system, which shall include, at a minimum, reading or language arts and mathematics;

(v) compare the proportions of students at levels of performance (as defined by the State) with the proportions of students at the levels in the same grade in the previous school year;

(vi) include annual numerical goals for improving the performance of each group specified in paragraph (5)(C) and narrowing gaps in performance between the highest and lowest performing students in accordance with section 10(b); and

(vii) require all students in the State to make substantial gains in achievement.

(B) ADDITIONAL INDICATORS OF PERFORMANCE.—A State may identify in the performance agreement any additional indicators of performance such as graduation, dropout, or attendance rates.

(C) CONSISTENCY OF PERFORMANCE MEASURES.—A State shall maintain, at a minimum, the same level of challenging State student performance standards and assessments throughout the term of the performance agreement.

(7) FISCAL RESPONSIBILITIES.—The performance agreement shall contain an assurance that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under this Act.

(8) CIVIL RIGHTS.—The performance agreement shall contain an assurance that the State will meet the requirements of applicable Federal civil rights laws.

(9) PRIVATE SCHOOL PARTICIPATION.—The performance agreement shall contain assurances—

(A) that the State will provide for the equitable participation of students and professional staff in private schools; and

(B) that sections 10104, 10105, and 10106 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004-8006) shall apply to all services and assistance provided under this Act in the same manner as such sections apply to services and assistance provided in accordance with section 10103 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8003).

(10) STATE FINANCIAL PARTICIPATION.—The performance agreement shall contain an assurance that the State will not reduce the level of spending of State funds for elementary and secondary education during the term of the performance agreement.

(11) ANNUAL REPORTS.—The performance agreement shall contain an assurance that not later than 1 year after the execution of the performance agreement, and annually thereafter, each State shall disseminate widely to parents and the general public, submit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

(A) student academic performance data, disaggregated as provided in paragraph (5)(C); and

(B) a detailed description of how the State has used Federal funds to improve student academic performance and reduce achievement gaps to meet the terms of the performance agreement.

(e) SPECIAL RULES.—If a State does not include part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in its performance agreement, the State shall—

(1) certify that the State developed a system to measure the academic performance of all students; and

(2) establish challenging academic performance goals for such other programs in accordance with paragraph (6)(A) of subsection (d), except that clause (vi) of such paragraph shall not apply to such performance agreement.

(f) AMENDMENT TO PERFORMANCE AGREEMENT.—A State may submit an amendment to the performance agreement to the Secretary under the following circumstances:

(1) REDUCTION IN SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after the execution of the performance agreement, a State may amend the performance agreement through a request to withdraw a program from such agreement. If the Secretary approves the amendment, the requirements of existing law shall apply for any program withdrawn from the performance agreement.

(2) EXPANSION OF SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after the execution of the performance agreement, a State may amend its performance agreement to include additional programs and performance indicators for which the State will be held accountable.

(3) APPROVAL OF AMENDMENT.—An amendment submitted to the Secretary under this subsection shall be considered as approved by the Secretary within 60 days after receipt of the amendment unless the Secretary provides, before the expiration of the 60-day period, a written determination to the State that the performance agreement, if amended

by the amendment, will fail to satisfy the requirements of this Act.

SEC. 4. ELIGIBLE PROGRAMS.

(a) ELIGIBLE PROGRAMS.—The provisions of law referred to in section 3(a) except as otherwise provided in subsection (b), are as follows:

(1) Part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(2) Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.).

(3) Part C of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6391 et seq.).

(4) Part D of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6421 et seq.).

(5) Section 1502 of part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6492).

(6) Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6641 et seq.).

(7) Section 3132 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6842).

(8) Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.)

(9) Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.).

(10) Part C of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7541 et seq.).

(11) Section 307 of the Department of Education Appropriations Act of 1999.

(12) Titles II, III, and IV of the School-to-Work Opportunities Act.

(13) Title III of the Goals 2000: Educate America Act (20 U.S.C. 5881 et seq.).

(14) Sections 115 and 116, and parts B and C of title I of the Carl D. Perkins Vocational and Technical Education Act of 1998.

(15) Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.).

(16) Section 321 of the Department of Education Appropriations Act, 2001.

(b) ALLOCATIONS TO STATES.—A State may choose to consolidate funds from any or all of the programs described in subsection (a) without regard to the program requirements of the provisions referred to in such subsection, except that the proportion of funds made available for national programs and allocations to each State for State and local use, under such provisions, shall remain in effect unless otherwise provided.

(c) USE OF FUNDS.—Funds made available under this Act to a State shall be used for any elementary and secondary educational purposes permitted by State law of the participating State.

SEC. 5. WITHIN-STATE DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—The distribution of funds from programs included in a performance agreement from a State to a local educational agency within the State shall be determined by the Governor of the State and the State legislature. In a State in which the constitution or State law designates another individual, entity, or agency to be responsible for education, the allocation of funds from programs included in the performance agreement from a State to a local educational agency within the State shall be determined by that individual, entity, or agency, in consultation with the Governor and State Legislature. Nothing in this section shall be construed to supersede or modify any provision of a State constitution or State law.

(b) LOCAL INPUT.—States shall provide parents, teachers, and local schools and school districts notice and opportunity to comment on the proposed allocation of funds as provided under general State law notice and comment provisions.

(c) LOCAL HOLD HARMLESS OF PART A TITLE I FUNDS.—

(1) IN GENERAL.—In the case of a State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement, the agreement shall provide an assurance that each local educational agency shall receive under the performance agreement an amount equal to or greater than the amount such agency received under part A of title I of such Act in the fiscal year preceding the fiscal year in which the performance agreement is executed.

(2) PROPORTIONATE REDUCTION.—If the amount made available to the State from the Secretary for a fiscal year is insufficient to pay to each local educational agency the amount made available under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) to such agency for the preceding fiscal year, the State shall reduce the amount each local educational agency receives by a uniform percentage.

SEC. 6. LOCAL PARTICIPATION.

(a) NONPARTICIPATING STATE.—

(1) IN GENERAL.—If a State chooses not to submit a performance agreement under this Act, any local educational agency in such State is eligible, at the local educational agency's option, to submit to the Secretary a performance agreement in accordance with this section.

(2) AGREEMENT.—The terms of a performance agreement between an eligible local educational agency and the Secretary shall specify the programs to be included in the performance agreement, as agreed upon by the State and the agency, from the list under section 4(a).

(b) STATE APPROVAL.—When submitting a performance agreement to the Secretary, an eligible local educational agency described in subsection (a) shall provide written documentation from the State in which such agency is located that the State has no objection to the agency's proposal for a performance agreement.

(c) APPLICATION.—

(1) IN GENERAL.—Except as provided in this section, and to the extent applicable, the requirements of this Act shall apply to an eligible local educational agency that submits a performance agreement in the same manner as the requirements apply to a State.

(2) EXCEPTIONS.—The following provisions shall not apply to an eligible local educational agency:

(A) WITHIN STATE DISTRIBUTION FORMULA NOT APPLICABLE.—The distribution of funds under section 5 shall not apply.

(B) STATE SET ASIDE NOT APPLICABLE.—The State set aside for administrative funds under section 7 shall not apply.

SEC. 7. LIMITATIONS ON STATE AND LOCAL EDUCATIONAL AGENCY ADMINISTRATIVE EXPENDITURES.

(a) IN GENERAL.—Except as otherwise provided under subsection (b), a State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement may use not more than 1 percent of such total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes.

(b) EXCEPTION.—A State that does not include part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement may use not more than 3 percent of the total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes.

(c) LOCAL EDUCATIONAL AGENCY.—A local educational agency participating in this Act under a performance agreement under section 6 may not use for administrative purposes more than 4 percent of the total amount of funds allocated to such agency under the programs included in the performance agreement.

SEC. 8. PERFORMANCE REVIEW AND PENALTIES.

(a) MID-TERM PERFORMANCE REVIEW.—If, during the 5-year term of the performance agreement, student achievement significantly declines for 3 consecutive years in the academic performance categories established in the performance agreement, the Secretary may, after notice and opportunity for a hearing, terminate the agreement.

(b) FAILURE TO MEET TERMS.—If, at the end of the 5-year term of the performance agreement, a State has not substantially met the performance goals submitted in the performance agreement, the Secretary shall, after notice and an opportunity for a hearing, terminate the performance agreement and the State shall be required to comply with the program requirements, in effect at the time of termination, for each program included in the performance agreement.

(c) PENALTY FOR FAILURE TO IMPROVE STUDENT PERFORMANCE.—If a State has made no progress toward achieving its performance goals by the end of the term of the agreement, the Secretary may reduce funds for State administrative costs for each program included in the performance agreement by up to 50 percent for each year of the 2-year period following the end of the term of the performance agreement.

SEC. 9. RENEWAL OF PERFORMANCE AGREEMENT.

(a) NOTIFICATION.—A State that wishes to renew its performance agreement shall notify the Secretary of its renewal request not less than 6 months prior to the end of the term of the performance agreement.

(b) RENEWAL REQUIREMENTS.—A State that has met or has substantially met its performance goals submitted in the performance agreement at the end of the 5-year term may apply to the Secretary to renew its performance agreement for an additional 5-year period. Upon the completion of the 5-year term of the performance agreement or as soon thereafter as the State submits data required under the agreement, the Secretary shall renew, for an additional 5-year term, the performance agreement of any State that has met or has substantially met its performance goals.

SEC. 10. ACHIEVEMENT GAP REDUCTION REWARDS.

(a) CLOSING THE GAP REWARD FUND.—

(1) IN GENERAL.—To reward States that make significant progress in eliminating achievement gaps by raising the achievement levels of the lowest performing students, the Secretary shall set aside sufficient funds from the Fund for the Improvement of Education under part A of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) to grant a reward to States that meet the conditions set forth in subsection (b) by the end of their 5-year performance agreement.

(2) REWARD AMOUNT.—The amount of the reward referred to in paragraph (1) shall be not less than 5 percent of funds allocated to the State during the first year of the performance agreement for programs included in the agreement.

(b) CONDITIONS OF PERFORMANCE REWARD.—Subject to paragraph (3), a State is eligible to receive a reward under this section as follows:

(1) A State is eligible for such an award if the State reduces by not less than 25 percent,

over the 5-year term of the performance agreement, the difference between the percentage of highest and lowest performing groups of students described in section 3(d)(5)(C) that meet the State's proficient level of performance.

(2) A State is eligible for such an award if a State increases the proportion of 2 or more groups of students under section 3(d)(5)(C) that meet State proficiency standards by 25 percent.

(3) A State shall receive such an award if the following requirements are met:

(A) CONTENT AREAS.—The reduction in the achievement gap or improvement in achievement shall include not less than 2 content areas, 1 of which shall be mathematics or reading.

(B) GRADES TESTED.—The reduction in the achievement gap or improvement in achievement shall occur in at least 2 grade levels.

(c) RULE OF CONSTRUCTION.—Student achievement gaps shall not be considered to have been reduced in circumstances where the average academic performance of the highest performing quintile of students has decreased.

SEC. 11. STRAIGHT A's PERFORMANCE REPORT.

The Secretary shall make the annual State reports described in section 3(d)(11) available 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 not later than 60 days after the Secretary receives the report.

SEC. 12. APPLICABILITY OF TITLE X.

To the extent that provisions of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) are inconsistent with this Act, this Act shall be construed as superseding such provisions.

SEC. 13. APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.

To the extent that the provisions of the General Education Provisions Act (20 U.S.C. 1221 et seq.) are inconsistent with this Act, this Act shall be construed as superseding such provisions, except where relating to civil rights, withholding of funds and enforcement authority, and family educational and privacy rights.

SEC. 14. APPLICABILITY TO HOME SCHOOLS.

Nothing in this Act shall be construed to affect home schools regardless of whether a home school is treated as a private school or home school under State law.

SEC. 15. GENERAL PROVISIONS REGARDING NON-RECIPIENT, NON-PUBLIC SCHOOLS.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law.

SEC. 16. DEFINITIONS.

In this Act:

(1) ALL STUDENTS.—The term ''all students'' means all students attending public schools or charter schools that are participating in the State's accountability and assessment system.

(2) 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).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(4) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

SEC. 17 EFFECTIVE DATE.

This Act shall take effect with respect to funds appropriated for the fiscal year beginning October 1, 2001.

Mr. MURKOWSKI. Mr. President, today I am pleased to join my distinguished colleague from Tennessee, Senator FRIST, in introducing the Academic Achievement for All Act known as Straight A's.

Our education system is in need of serious reform. Thirty-five years ago, Congress enacted the first Elementary and Secondary Education Act. Today, over $120 billion has been spent on Title I—the program that is the cornerstone of the federal investment in K through 12 education for disadvantaged children. However, only 13 percent of low-income 4th graders score at or above the ''proficient'' level on national reading tests, and one-third of all incoming college freshman must enroll in remedial reading, writing, or mathematics classes before taking regular courses. Even worse, no progress has been made in achieving the program's fundamental goal, narrowing the achievement gap between low-income and upper-income students.

More fundamentally, the Federal role in education has been at best irrelevant in some states, and a serious barrier to reform in States that are far ahead of the curve in implementing serious reforms. It is time that parents, teachers, principals, and school board members decide what is best for our children. It is important that we return to our States and local communities the right to set priorities that reflect the unique needs of their students. The Straight A's Act offers such an option. It leaves the basic construct of Federal education programs intact, but offers some states the opportunity to experiment. Straight A's would allow states or school districts to spend their share of Federal dollars on reforms of their choice in exchange for agreed upon academic results. It is the first Federal education program to shift Federal dollars from one size fits all programs to a program that demands academic outcomes.

I believe that choice and flexibility are the two most important aspects of education reform. The Straight A's Act offers both. The time has come to move forward with education reform, and I think Straight A's is moving in the right direction.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mrs. BOXER):

S. 169. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal criminal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to reintroduce the State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act. Senators MCCAIN, HUTCHISON, GRAMM, DOMENICI, BINGAMAN, FEINSTEIN, and BOXER join me. This bill, which is identical to the bill I introduced in the 106th Congress, will be of great importance to Arizona's future fiscal soundness and that of the other southwest border states.

The bill will reimburse states and localities for the costs they incur to process criminal illegal aliens through their criminal justice systems. It will also provide reimbursement for the uncompensated care that states, localities, and hospitals provide, as required by federal law, to undocumented aliens for medical emergencies.

It is unclear what the true expense for providing these services is, but it is believed to be even greater than the level of reimbursement provided for in the bill we introduce today. Title I of our bill will provide $200 million each year for four years for the criminal justice costs associated with processing criminal illegal aliens. Title II will provide $200 million each year for four years for the costs that states, localities, and hospitals incur to provide emergency medical treatment to undocumented aliens.

We will soon have a better idea of what these overwhelming costs are to those jurisdictions clearly affected, the local border communities in Arizona, Texas, California, and New Mexico. Last year I successfully secured funding for a study which should be completed this week and will detail the expenses that border communities in all four southwest states incur to process criminal aliens. The Arizona portion is already complete. In the four border counties of Arizona, $18 million in unreimbursed costs are incurred to process criminal illegal aliens.

Preventing illegal immigration is the responsibility of the Federal Government. When it fails to protect our borders from illegal immigration, it has a responsibility to reimburse jurisdictions that provide federally-mandated services that (1) protect citizens and legal residents from criminal illegal aliens, or (2) provide emergency medical attention to undocumented immigrants. These two services have a tremendous effect on the budgets of these relatively small jurisdictions. When illegal immigrants commit crimes and are then caught, they drain the budgets of a locality's sheriff, detention facilities, justice court, county attorney, clerk of the court, superior and juvenile court, and juvenile detention departments, as well as the county's indigent defense budget. States and local jurisdictions all along the southwestern border have incurred 100 percent of these processing-related costs to date. Our bill will change that.

Another study I was able to secure funding for in the 106th Congress will soon begin. That study will detail the overwhelming, and again unreimbursed, costs that certain localities

and hospitals are incurring to treat illegal immigrants for medical emergencies. The federal government is obligated to fully reimburse states, localities, and hospitals for the emergency medical treatment of illegal immigrants.

According to a preliminary Congressional Budget Office estimate provided two years ago, the total annual cost to treat illegal immigrants for medical emergencies is roughly $2.8 billion a year. It is roughly estimated that the federal government reimburses states for approximately half of that amount. That means states must pay the remaining $1.4 billion. The state of Arizona estimates that it incurs unreimbursed costs of $30 million annually to treat undocumented immigrants on an emergency basis.

The bill we introduce today will provide states, localities, and hospitals an additional $200 million per year to help absorb the costs of adhering to Federal law, which mandates that all individuals, regardless of immigration status or ability to pay, must be provided with medical treatment in a medical emergency.

Mr. President, I hope we can address these very pressing issues in the coming months, and that Members will consider joining my cosponsors and me in support of this bill.

Mr. MCCAIN. Mr. President, I rise today in support of legislation Senator KYL and I are introducing with a number of our border-state colleagues to provide appropriate Federal reimbursement to states and localities whose budgets are disproportionately affected by the costs associated with illegal immigration. The premise of our bill, and of current law governing this type of federal reimbursement to the states, is that controlling illegal immigration is principally the responsibility of the Federal government, not the states.

Our legislation would expand the amount and scope of federal funding to the states for incarceration and medical costs that arise from the detention or treatment of illegal immigrants. Such funding currently flows to all 50 states, the District of Columbia, and several U.S. territories. In Fiscal Year 2000, approximately 360 local jurisdictions across the United States applied for these Federal monies. Although our bill gives special consideration to border States and States with unusually high concentrations of illegal aliens in residence, it would benefit communities across the nation. It deserves the Senate's prompt consideration and approval.

Many of my colleagues are probably not aware that the Federal Government, under the existing State Criminal Alien Assistance Program, SCAAP, reimburses states and counties burdened by illegal immigration for less than 40 percent of eligible alien incarceration costs. Many border counties estimate that between one-quarter and one-third of their criminal justice budgets are spent processing criminal aliens. In my State of Arizona, Santa Cruz County spent 33 percent of its total criminal justice budget in Fiscal Year 1999 to process criminal illegal aliens, of which over half was not reimbursed by the Federal Government. Arizona's Cochise County spent roughly 32 percent of its total law enforcement and criminal justice budget to apprehend and process criminal illegal aliens but received Federal payments to cover fewer than half of these costs. Similar shortfalls in Federal funding plague states and counties all along our border with Mexico.

The legislation we are introducing today would actually expand the State Criminal Alien Assistance Program by authorizing funding for state and local needs that currently go unmet. Although states receive Federal reimbursement for part of the cost of incarcerating illegal adult aliens, the Federal Government does not reimburse states or units of local government for expenditures for illegal juvenile aliens. Nor does it reimburse states and localities for costs associated with processing criminal illegal aliens, including court costs, county attorney costs, costs for criminal proceedings that do not involve going to trial, indigent defense costs, and unsupervised probation costs. Our legislation would authorize the Federal Government to reimburse such costs to States and localities that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems. It would also authorize additional Federal reimbursement for emergency health services furnished by states and localities to undocumented aliens.

Reimbursement to States and localities for criminal alien incarceration is woefully underfunded according to the existing limited criteria for SCAAP, which do not take into account the full detention and processing costs for illegal aliens. Nor does the existing SCAAP provide necessary support to local communities for the cost of emergency care for illegal immigrants, a growing problem in the Southwest, and one exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico. Our legislation thus authorizes the expansion of SCAAP to cover costs wrongly borne by local communities under current law—costs which are a Federal responsibility and should not be shirked by those in Washington.

As my colleagues know, illegal immigrants who successfully transit our Southwest border rapidly disperse throughout the United States. That SCAAP funds flow to all 50 States reflects the pressures such aliens place on public services around the country. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating state and local units for the costs they incur as unwitting hosts to undocumented aliens, even as we continue to fund border enforcement measures to reduce the flow of illegal immigrants into this country.

By Mr. REID (for himself, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. DORGAN, Mr. CONRAD, Mr. JOHNSON, Mr. MCCAIN, Mr. BINGAMAN, Mr. INOUYE, Mr. SHELBY, Ms. SNOWE, and Mr. DASCHLE):

S. 170. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

Mr. REID. Mr. President, last Congress I, along with Senator INOUYE, introduced S. 2357, ''The Armed Forces Concurrent Retirement and Disability Payment Act of 2000.'' Our bill addressed a 110 year old injustice that requires some of the bravest men and women in our nation—retired, career veterans, to essentially forgo receipt of a portion of their retired pay if they received a disability injury in the line of service. I am extremely disappointed that we did not take the opportunity to correct this long-standing inequity in the 106th Congress.

I rise today, to again introduce a bill along with my colleagues Senators HUTCHINSON, LANDRIEU, DORGAN, CONRAD, JOHNSON, MCCAIN, BINGAMAN, INOUYE, SHELBY, SNOWE and DASCHLE, that will correct this inequity for veterans who have retired from our Armed Forces with a service-connected disability.

Our bill will permit retired members of the Armed Forces who have a service connected disability to receive military retired pay concurrently with veterans' disability compensation.

This inequitable law originated in the 19th century, when Congress approved legislation to prohibit the concurrent receipt of military retired pay and VA disability compensation. It was enacted shortly after the Civil War, when the standing army of the United States was extremely limited. At that time, only a small portion of our armed forces consisted of career soldiers.

Today, nearly one and a half million Americans dedicate their lives to the defense of our nation. The United States' military force is unmatched in terms of power, training and ability and our nation is recognized as the world's only superpower, a status which is largely due to the sacrifices our veterans made during the last century. Rather than honoring their commitment and bravery by fulfilling our obligations, the federal government has chosen instead to perpetuate a 110-year-old injustice. Quite simply, this is disgraceful.

Military retirement pay and disability compensation were earned and awarded for entirely different purposes.

Current law ignores the distinction between these two entitlements. Members of our Armed Forces have normally dedicated 20 or more years to our country's defense earning their retirement for service. Whereas, disability compensation is awarded to a veteran for injury incurred in the line of duty.

Career military retired veterans are the only group of federal retirees who are required to waive their retirement pay in order to receive VA disability. All other federal employees receive both their civil service retirement and VA disability with no offset. Simply put, the law discriminates against career military men and women.

This inequity is absurd. How do we explain it to the men and women who sacrificed their own safety to protect this great nation? How do we explain this inequity to Edward Lynk from Virginia who answered the call of duty to defend our nation? Mr. Lynk served for over 30 years in the Marine Corps and participated in three wars, where he was severely injured during combat in two of them.

Or George Blahun from Connecticut, who entered the military in 1940 to serve his country because of the impending war. He served over 35 years during World War II, the Korean War and the Vietnam War. He is 100 percent disabled because of injuries incurred while performing military service.

Our nation is experiencing a prosperity unparalleled in human history and yet we continue to tell these brave soldiers that we cannot afford to make good on payments they are owed. Mr. Blahun has hit the proverbial nail on the head when he labels our excuses ''arbitrary bureaucratic rhetorical nonsense.'' We must demonstrate to these veterans that we are thankful for their dedicated service. As such, we must fight for the amendment in the Senate version of the National Defense Authorization bill for FY 2001.

We are currently losing over one thousand WWII veterans each day. Every day we delay acting on this legislation means that we have denied fundamental fairness to thousands of men and women. They will never have the ability to enjoy their two well-deserved entitlements.

Mr. President, this bill represents an honest attempt to correct an injustice that has existed for far too long. Allowing disabled veterans to receive military retired pay and veterans disability compensation concurrently will restore fairness to Federal retirement policy.

This legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

Mr. President, passing ''The Retired Pay Restoration Act of 2001'' will finally eliminate a gross inequitable 19th century law and ensure fairness within the Federal retirement policy. Our veterans have heard enough excuses. Now it is time for them to hear our gratitude. I urge my colleagues to join me in supporting this legislation to finally end this disservice to our retired military men and women.

Our veterans have earned this and now is our chance to honor their service to our Nation.

I ask unanimous consent that the text of the Retired Pay Restoration Act of 2001 be printed in the RECORD.

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

S. 170

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 ''Retired Pay Restoration Act of 2001''.

SEC. 2. PAYMENT OF RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) RESTORATION OF RETIRED PAY BENEFITS.—Chapter 71 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAM.—Section 1413 of such title is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(1) by striking the item relating to section 1413; and

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

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

SEC. 3. EFFECTIVE DATE; PROHIBITION ON RETROACTIVE BENEFITS.

(a) IN GENERAL.—The amendments made by this Act shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(b) RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as added by the amendment made by section 2(a), for any period before the effective date specified in subsection (a).

Mr. HUTCHINSON. Mr. President, I rise today to join my distinguished colleague from across the aisle, Senator REID, in introducing the Military Retirement Equity Act of 2001. With the swift passage of this act, we hope to put an end to a grossly unfair practice, to reform a system that, as it stands today, ends up hurting those veterans we owe our greatest debt of gratitude.

Today, our armed forces are struggling to meet even modest recruiting goals and are having even more difficulty retaining qualified men and women. Serving in the military is less likely to be seen as an attractive career. The Federal Government should do its part to help, not to hinder, the viability of the idea of a career in uniform.

Unfortunately, an outdated law passed in 1891 punishes those who have served this Nation in uniform for more than twenty years, in the process earning a longevity retirement. How? By forcing them to waive the amount of their retired pay equal to the amount of any VA disability compensation they may be eligible to receive. That is patently unfair. Military retirement pay based on longevity and VA disability compensation are awarded for two distinct, different reasons—one should not count against the other. One is awarded for making a career of public service, the other is to redress debilitating, enduring injuries caused by the rigors of life in the military.

Military retirees are the only group of federal retirees who must waive a portion of their retirement pay in order to receive VA disability compensation. If a veteran refuses to give up his retired pay, he will lose his VA benefits.

Let's take the fictional example of two G.I.'s named Joe and Sam. Joe and Sam joined the Army together and were wounded in the same battle. Joe left the Army after a four-year tour and joined the federal government as a civilian employee. Sam continued on and made the military his career.

Thirty years later, both men are receiving federal retirement pay and both are eligible for VA disability compensation as a result of the injuries they sustained while in the service. The difference between Joe and Sam is that in order to get disability compensation, Sam must forfeit an equal amount of his retired pay, while Joe collects the full amount of both benefits without any deduction in either.

Fairness is the issue here. We should be rewarding, not penalizing people for choosing a career in the military. Military retirees with service-connected disabilities should be allowed to receive compensation for their injuries above their retired military pay. The 107th Congress must act to bring equity to those who were disabled during a career of dedicated service to our nation, and the Reid-Hutchinson bill is the proper vehicle. By eliminating the offset, we can end this unfair practice that hurts those who need our help.

The Military Retirement Equity Act of 2001 has the strong support of many military and nonmilitary veterans service organizations. In addition, Congressman MICHAEL BILIRAKIS has introduced companion legislation in the House of Representatives. I encourage all of my colleagues to join us in this fight by signing on as cosponsors.

While I know it will be an uphill battle to get this legislation passed, it is one of my highest priorities. It's only right that the Congress make this much-needed change and reward—rather than penalize—those who have selflessly served to protect our Nation.

By Mr. SMITH of Oregon:

S. 172. A bill to benefit electricity consumers by promoting the reliability of the bulk-power system; to the Committee on Energy and Natural Resources.

Mr. SMITH of Oregon. I stand before you and the Senate today. As I do this, our Nation is relearning a fundamental lesson—that electricity does not come from hitting a light switch. Our urban areas are getting a painful lesson that the quality of life that we and they enjoy in this Nation is a direct result of resource production.

California is scrambling as we speak to keep the lights on from day to day and has had 2 days recently of rolling blackouts. The west coast energy crisis shows no sign of abating and could actually intensify in coming weeks if the region, which is heavily dependent on hydroelectric power, continues to face below average precipitation. The reservoir behind the Grand Coulee Dam, by far the largest of the Federal dams in the Northwest, is at its lowest level in 25 years. The Grand Coulee Dam is also upstream of 10 other dams on the mainstem Columbia River. So downstream powerhouses cannot generate electricity either.

Much of the media attention in recent weeks has focused on efforts to keep the lights on in California and to keep the State's two largest utilities from going bankrupt. The west coast energy market extends to 11 other Western States, including Oregon, that are all interconnected by the high-voltage transmission system.

I believe there is more that California can and must do immediately to address this situation. First and foremost, it must approve further electric rate increases. I don't normally advocate increases, but this is necessary to send the right signal to Californians that they have to conserve energy.

Further, price increases are necessary to help California's investor-owned utilities, which have recently been reduced to junk bond status, from going bankrupt. Avoiding bankruptcy for these utilities is important for Oregon and for other Western States. Since the middle of December, Northwest utilities have been forced, by Federal order, to sell their surplus power into California, with no guarantee of being paid. If the California utilities subsequently seek bankruptcy protection, it will be Oregonians who are stuck with the bill for California's failed restructuring effort.

We should not confuse this with deregulation. This is a failed effort at restructuring that incredibly took off, went to a free market in the wholesale, went to a price cap at retail, and then overregulated at production levels.

I tell you, when you do that with an expanding economy, you have created a catastrophe. That is what California has created, and its neighbors are now beginning to help shoulder the burden.

California must also operate its native generation, including its fossil fuel plants, at full capacity during this crisis. It can also find additional temporary generation.

I recently came across a news story from last August about one California utility that was abandoning its efforts to moor a floating power plant in San Francisco Bay as protection against future power shortages.

That 95-megawatt emergency powerplant could have provided enough power for 95,000 homes in the area.

However, according to this news clip, the company abandoned its efforts because it was ''under fire from environmentalists and skeptical of winning regulatory approval. . . .''

The article also quoted the executive director of the San Francisco Bay Conservation and Development Commission as saying, ''The commission was skeptical as to whether the emergency really existed.''

What a difference a few months makes. I wonder if anyone in San Francisco thinks there isn't an emergency now.

In response to these tight margins between supply and demand, today I am reintroducing legislation that passed the Senate last Congress that will enhance the reliability of the wholesale transmission system. It is imperative that the transmission grid be operated as efficiently and reliably as possible during times when the margin between supply and demand is so tight.

Yesterday, I sent a letter to the President urging him to issue an Executive order directing electricity conservation at all federal facilities throughout the twelve western states. Between federal office buildings, post offices, military bases, prisons, and other facilities, the federal government is among the largest consumers of electricity in the West.

The Governors of Oregon and Washington are seeking 10 percent reductions in energy use at state facilities, and I believe this would be an appropriate goal for federal facilities as well.

The federal government is also a major producer of electricity in the Western United States. Much of that generation is from hydroelectric facilities.

I have expressed concern over the last several weeks that the Columbia and Snake River hydropower facilities not be operated in a manner that jeopardizes salmon recovery efforts in what is shaping up to be a poor water year in the Basin.

However, there are many other federal generation facilities throughout the 12 western states that are interconnected by the high-voltage transmission system.

Therefore, I asked that the Energy Department be directed to undertake an immediate review of all of these facilities to ensure they are providing as much power as possible during this crisis.

It is not just California that needs additional generation, however. According to a recent study by the Northwest Power Planning Council, the Pacific Northwest faces a 25 percent chance of power shortages during this and coming winters.

To reduce this probability to a more acceptable level of five percent, the Northwest needs nearly 3,000 megawatts of new generating resources, conservation, or short-term demand management.

This report, however, assumed that all the other generation remained equal. Yet in recent years there have been calls to close the nuclear plant WNP2, with a capacity of 1,250 megawatts.

Breaching the four lower Snake River dams, which I oppose, would reduce capacity by another 1,200 megawatts, enough power for Seattle.

In addition, almost 12,000 megawatts of non-federal hydroelectric power in Oregon, Washington, Idaho, and California, is up for relicensing between now and 2010. More stringent operating criteria could reduce the total amount of power available.

New licenses will probably also reduce the operational flexibility of these facilities that makes hydropower so valuable in meeting daily peaks in energy demand.

In the face of the numbers I just quoted, I believe it is the height of irresponsibility to even be discussing breaching the four lower Snake River dams. The Endangered Species Act was never intended to force us, as Americans, to dismantle the infrastructure that our parents and grandparents worked so hard to build.

The Bush administration is going to have to clean up a huge mess that is not of their making. The assault on domestic energy production and the lack of a national energy strategy over the last eight years are finally coming

home to roost. This nation is more dependent on foreign oil than at any time in its history, and crude oil prices are rising as foreign nations are reducing production. Natural gas prices have doubled in recent months. Electricity prices on the West Coast have skyrocketed, and they remain high in the Northeast.

The previous administration started out wanting to tax energy production through a BTU tax, as a way to force Americans to conserve. When that wasn't enacted, the past administration went about a systematic assault on energy production. They went after coal-fired plants, nuclear plants, and hydroelectric plants.

They opposed the siting of new natural gas pipelines and the expansion of oil refining capacity. They put millions of acres of land off-limits to oil, gas, and coal exploration. The economy, particularly on the west coast, is just beginning to feel the cumulative effects of these actions.

The U.S. economy needs energy. It needs abundant, reasonably priced oil, gas and electricity if our economic prosperity is to continue.

I want to thank the leadership of the Senate for efforts to craft an energy bill. I know that the Bush administration will work with the Congress to achieve more energy production and more conservation.

But I say to my fellow Oregonians and Americans everywhere who care about this issue that we must reconnect the reality dots between the lives we live and the natural resources we demand.

At the end of the day, power is not created by hitting a light switch. Food does not come from Safeway. Gasoline does not come from a filling station. These are all things we need, and we must be good stewards of the environment but also remember that using the land does not have to equal abusing the land. But those who advocate that all must be shut down are simply the ones who would visit this trauma that we are now seeing in California on the rest of us as well.

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. 172

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 ''Electric Reliability Act''.

SEC. 2. ELECTRIC RELIABILITY ORGANIZATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY ORGANIZATION.

''(a) DEFINITIONS.—In this section:

''(1) AFFILIATED REGIONAL RELIABILITY ENTITY.—The term 'affiliated regional reliability entity' means an entity delegated authority under subsection (h).

''(2) BULK-POWER SYSTEM.—

''(A) IN GENERAL.—The term 'bulk-power system' means all facilities and control systems necessary for operating an interconnected electric power transmission grid or any portion of an interconnected electric power transmission grid.

''(B) INCLUSIONS.—The term 'bulk-power system' includes—

''(i) high voltage transmission lines, substations, control centers, communications, data, and operations planning facilities necessary for the operation of all or any part of the interconnected electric power transmission grid; and

''(ii) the output of generating units necessary to maintain the reliability of the interconnected electric power transmission grid.

''(3) BULK-POWER SYSTEM USER.—The term 'bulk-power system user' means an entity that—

''(A) sells, purchases, or transmits electric energy over a bulk-power system;

''(B) owns, operates, or maintains facilities or control systems that are part of a bulk-power system; or

''(C) is a system operator.

''(4) ELECTRIC RELIABILITY ORGANIZATION.—The term 'electric reliability organization' means the organization designated by the Commission under subsection (d).

''(5) ENTITY RULE.—The term 'entity rule' means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce 1 or more organization standards.

''(6) INDEPENDENT DIRECTOR.—The term 'independent director' means a person that—

''(A) is not an officer or employee of an entity that would reasonably be perceived as having a direct financial interest in the outcome of a decision by the board of directors of the electric reliability organization; and

''(B) does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director of the electric reliability organization.

''(7) INDUSTRY SECTOR.—The term 'industry sector' means a group of bulk-power system users with substantially similar commercial interests, as determined by the board of directors of the electric reliability organization.

''(8) INTERCONNECTION.—The term 'interconnection' means a geographic area in which the operation of bulk-power system components is synchronized so that the failure of 1 or more of the components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

''(9) ORGANIZATION STANDARD.—

''(A) IN GENERAL.—The term 'organization standard' means a policy or standard adopted by the electric reliability organization to provide for the reliable operation of a bulk-power system.

''(B) INCLUSIONS.—The term 'organization standard' includes—

''(i) an entity rule approved by the electric reliability organization; and

''(ii) a variance approved by the electric reliability organization.

''(10) PUBLIC INTEREST GROUP.—

''(A) IN GENERAL.—The term 'public interest group' means a nonprofit private or public organization that has an interest in the activities of the electric reliability organization.

''(B) INCLUSIONS.—The term 'public interest group' includes—

''(i) a ratepayer advocate;

''(ii) an environmental group; and

''(iii) a State or local government organization that regulates participants in, and promulgates government policy with respect to, the market for electric energy.

''(11) SYSTEM OPERATOR.—

''(A) IN GENERAL.—The term 'system operator' means an entity that operates or is responsible for the operation of a bulk-power system.

''(B) INCLUSIONS.—The term 'system operator' includes—

''(i) a control area operator;

''(ii) an independent system operator;

''(iii) a transmission company;

''(iv) a transmission system operator; and

''(v) a regional security coordinator.

''(12) VARIANCE.—The term 'variance' means an exception from the requirements of an organization standard (including a proposal for an organization standard in a case in which there is no organization standard) that is adopted by an affiliated regional reliability entity and is applicable to all or a part of the region for which the affiliated regional reliability entity is responsible.

''(b) COMMISSION AUTHORITY.—

''(1) JURISDICTION.—Notwithstanding section 201(f), within the United States, the Commission shall have jurisdiction over the electric reliability organization, all affiliated regional reliability entities, all system operators, and all bulk-power system users (including entities described in section 201(f) for purposes of approving organization standards and enforcing compliance with this section.

''(2) DEFINITION OF TERMS.—The Commission may by regulation define any term used in this section consistent with the definitions in subsection (a) and the purpose and intent of this Act.

''(c) EXISTING RELIABILITY STANDARDS.—

''(1) SUBMISSION TO THE COMMISSION.—Before designation of an electric reliability organization under subsection (d), any person, including the North American Electric Reliability Council and its member Regional Reliability Councils, may submit to the Commission any reliability standard, guidance, practice, or amendment to a reliability standard, guidance, or practice that the person proposes to be made mandatory and enforceable.

''(2) REVIEW BY THE COMMISSION.—The Commission, after allowing interested persons an opportunity to submit comments, may approve a proposed mandatory standard, guidance, practice, or amendment submitted under paragraph (1) if the Commission finds that the standard, guidance, or practice is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(3) EFFECT OF APPROVAL.—A standard, guidance, or practice shall be mandatory and applicable according to its terms following approval by the Commission and shall remain in effect until it is—

''(A) withdrawn, disapproved, or superseded by an organization standard that is issued or approved by the electric reliability organization and made effective by the Commission under subsection (e); or

''(B) disapproved by the Commission if, on complaint or upon motion by the Commission and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest.

''(4) ENFORCEABILITY.—A standard, guidance, or practice in effect under this subsection shall be enforceable by the Commission.

''(d) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—

''(1) REGULATIONS.—

''(A) PROPOSED REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Commission shall propose

regulations specifying procedures and requirements for an entity to apply for designation as the electric reliability organization.

''(B) NOTICE AND COMMENT.—The Commission shall provide notice and opportunity for comment on the proposed regulations.

''(C) FINAL REGULATION.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations under this subsection.

''(2) APPLICATION.—

''(A) Submission.—Following the promulgation of final regulations under paragraph (1), an entity may submit an application to the Commission for designation as the electric reliability organization.

''(B) CONTENTS.—The applicant shall describe in the application—

''(i) the governance and procedures of the applicant; and

''(ii) the funding mechanism and initial funding requirements of the applicant.

''(3) NOTICE AND COMMENT.—The Commission shall—

''(A) provide public notice of the application; and

''(B) afford interested parties an opportunity to comment.

''(4) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—The Commission shall designate the applicant as the electric reliability organization if the Commission determines that the applicant—

''(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of bulk-power systems;

''(B) permits voluntary membership to any bulk-power system user or public interest group;

''(C) ensures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards and the exercise of oversight of bulk-power system reliability;

''(D) ensures that no 2 industry sectors have the ability to control, and no 1 industry sector has the ability to veto, the applicant's discharge of its responsibilities as the electric reliability organization (including actions by committees recommending standards for approval by the board or other board actions to implement and enforce standards);

''(E) provides for governance by a board wholly comprised of independent directors;

''(F) provides a funding mechanism and requirements that—

''(i) are just, reasonable, not unduly discriminatory or preferential and in the public interest; and

''(ii) satisfy the requirements of subsection (l);

''(G) has established procedures for development of organization standards that—

''(i) provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards;

''(ii) ensure openness, a balancing of interests, and due process; and

''(iii) includes alternative procedures to be followed in emergencies;

''(H) has established fair and impartial procedures for implementation and enforcement of organization standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

''(I) has established procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information that the directors reasonably determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

''(J) provides for the consideration of recommendations of States and State commissions; and

''(K) addresses other matters that the Commission considers appropriate to ensure that the procedures, governance, and funding of the electric reliability organization are just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(5) EXCLUSIVE DESIGNATION.—

''(A) IN GENERAL.—The Commission shall designate only 1 electric reliability organization.

''(B) MULTIPLE APPLICATIONS.—If the Commission receives 2 or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application that the Commission determines will best implement this section.

''(e) ORGANIZATION STANDARDS.—

''(1) SUBMISSION OF PROPOSALS TO COMMISSION.—

''(A) IN GENERAL.—The electric reliability organization shall submit to the Commission proposals for any new or modified organization standards.

''(B) CONTENTS.—A proposal submitted under subparagraph (A) shall include—

''(i) a concise statement of the purpose of the proposal; and

''(ii) a record of any proceedings conducted with respect to the proposal.

''(2) REVIEW BY THE COMMISSION.—

''(A) NOTICE AND COMMENT.—The Commission shall—

''(i) provide notice of a proposal under paragraph (1); and

''(ii) allow interested persons 30 days to submit comments on the proposal.

''(B) ACTION BY THE COMMISSION.—

''(i) IN GENERAL.—After taking into consideration any submitted comments, the Commission shall approve or disapprove a proposed organization standard not later than the end of the 60-day period beginning on the date of the deadline for the submission of comments, except that the Commission may extend the 60-day period for an additional 90 days for good cause.

''(ii) FAILURE TO ACT.—If the Commission does not approve or disapprove a proposal within the period specified in clause (i), the proposed organization standard shall go into effect subject to its terms, without prejudice to the authority of the Commission to modify the organization standard in accordance with the standards and requirements of this section.

''(C) EFFECTIVE DATE.—An organization standard approved by the Commission shall take effect not earlier than 30 days after the date of the Commission's order of approval.

''(D) STANDARDS FOR APPROVAL.—

''(i) IN GENERAL.—The Commission shall approve a proposed new or modified organization standard if the Commission determines the organization standard to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(ii) CONSIDERATIONS.—In the exercise of its review responsibilities under this subsection, the Commission—

''(I) shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a new or modified organization standard; but

''(II) shall not defer to the electric reliability organization with respect to the effect of the organization standard on competition.

''(E) REMAND.—A proposed organization standard that is disapproved in whole or in part by the Commission shall be remanded to the electric reliability organization for further consideration.

''(3) ORDERS TO DEVELOP OR MODIFY ORGANIZATION STANDARDS.—The Commission, on complaint or on motion of the Commission, may order the electric reliability organization to develop and submit to the Commission, by a date specified in the order, an organization standard or modification to an existing organization standard to address a specific matter if the Commission considers a new or modified organization standard appropriate to carry out this section, and the electric reliability organization shall develop and submit the organization standard or modification to the Commission in accordance with this subsection.

''(4) VARIANCES AND ENTITY RULES.—

''(A) PROPOSAL.—An affiliated regional reliability entity may propose a variance or entity rule to the electric reliability organization.

''(B) EXPEDITED CONSIDERATION.—If expedited consideration is necessary to provide for bulk-power system reliability, the affiliated regional reliability entity may—

''(i) request that the electric reliability organization expedite consideration of the proposal; and

''(ii) file a notice of the request with the Commission.

''(C) FAILURE TO ACT.—

''(i) IN GENERAL.—If the electric reliability organization fails to adopt the variance or entity rule, in whole or in part, the affiliated regional reliability entity may request that the Commission review the proposal.

''(ii) ACTION BY THE COMMISSION.—If the Commission determines, after a review of the request, that the action of the electric reliability organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest and that the electric reliability organization has unreasonably rejected or failed to act on the proposal, the Commission may—

''(I) remand the proposal for further consideration by the electric reliability organization; or

''(II) order the electric reliability organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by the affiliated regional reliability entity.

''(D) PROCEDURE.—A variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the electric reliability organization for review and submission to the Commission in accordance with the procedures specified in paragraph (2).

''(5) IMMEDIATE EFFECTIVENESS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, a new or modified organization standard shall take effect immediately on submission to the Commission without notice or comment if the electric reliability organization—

''(i) determines that an emergency exists requiring that the new or modified organization standard take effect immediately without notice or comment;

''(ii) notifies the Commission as soon as practicable after making the determination;

''(iii) submits the new or modified organization standard to the Commission not later than 5 days after making the determination; and

''(iv) includes in the submission an explanation of the need for immediate effectiveness.

''(B) NOTICE AND COMMENT.—The Commission shall—

''(i) provide notice of the new or modified organization standard or amendment for comment; and

''(ii) follow the procedures specified in paragraphs (2) and (3) for review of the new or modified organization standard.

''(6) COMPLIANCE.—Each bulk power system user shall comply with an organization standard that takes effect under this section.

''(f) COORDINATION WITH CANADA AND MEXICO.—

''(1) RECOGNITION.—The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

''(2) INTERNATIONAL AGREEMENTS.—

''(A) IN GENERAL.—The President shall use best efforts to enter into international agreements with the appropriate governments in Canada and Mexico to provide for—

''(i) effective compliance with organization standards; and

''(ii) the effectiveness of the electric reliability organization in carrying out its mission and responsibilities.

''(B) COMPLIANCE.—All actions taken by the electric reliability organization, an affiliated regional reliability entity, and the Commission shall be consistent with any international agreement under subparagraph (A).

''(g) CHANGES IN PROCEDURE, GOVERNANCE, OR FUNDING.—

''(1) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

''(A) any proposed change in a procedure, governance, or funding provision; or

''(B) any change in an affiliated regional reliability entity's procedure, governance, or funding provision relating to delegated functions.

''(2) CONTENTS.—A submission under paragraph (1) shall include an explanation of the basis and purpose for the change.

''(3) EFFECTIVENESS.—

''(A) CHANGES IN PROCEDURE.—

''(i) CHANGES CONSTITUTING A STATEMENT OF POLICY, PRACTICE, OR INTERPRETATION.—A proposed change in procedure shall take effect 90 days after submission to the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of the procedure.

''(ii) OTHER CHANGES.—A proposed change in procedure other than a change described in clause (i) shall take effect on a finding by the Commission, after notice and opportunity for comment, that the change—

''(I) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(II) satisfies the requirements of subsection (d)(4).

''(B) CHANGES IN GOVERNANCE OR FUNDING.—A proposed change in governance or funding shall not take effect unless the Commission finds that the change—

''(i) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) satisfies the requirements of subsection (d)(4).

''(4) ORDER TO AMEND.—

''(A) IN GENERAL.—The Commission, on complaint or on the motion of the Commission, may require the electric reliability organization to amend a procedural, governance, or funding provision if the Commission determines that the amendment is necessary to meet the requirements of this section.

''(B) FILING.—The electric reliability organization shall submit the amendment in accordance with paragraph (1).

''(h) DELEGATIONS OF AUTHORITY.—

''(1) IN GENERAL.—

''(A) IMPLEMENTATION AND ENFORCEMENT OF COMPLIANCE.—At the request of an entity, the electric reliability organization shall enter into an agreement with the entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the electric reliability organization finds that—

''(i) the entity satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4); and

''(ii) the delegation would promote the effective and efficient implementation and administration of bulk-power system reliability.

''(B) OTHER AUTHORITY.—The electric reliability organization may enter into an agreement to delegate to an entity any other authority, except that the electric reliability organization shall reserve the right to set and approve standards for bulk-power system reliability.

''(2) APPROVAL BY THE COMMISSION.—

''(A) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

''(i) any agreement entered into under this subsection; and

''(ii) any information the Commission requires with respect to the affiliated regional reliability entity to which authority is delegated.

''(B) STANDARDS FOR APPROVAL.—The Commission shall approve the agreement, following public notice and an opportunity for comment, if the Commission finds that the agreement—

''(i) meets the requirements of paragraph (1); and

''(ii) is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(C) REBUTTABLE PRESUMPTION.—A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to promote the effective and efficient implementation and administration of the reliability of the bulk-power system.

''(D) INVALIDITY ABSENT APPROVAL.—No delegation by the electric reliability organization shall be valid unless the delegation is approved by the Commission.

''(3) PROCEDURES FOR ENTITY RULES AND VARIANCES.—

''(A) IN GENERAL.—A delegation agreement under this subsection shall specify the procedures by which the affiliated regional reliability entity may propose entity rules or variances for review by the electric reliability organization.

''(B) INTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply on an interconnection-wide basis, the electric reliability organization shall approve the entity rule or variance unless the electric reliability organization makes a written finding that the entity rule or variance—

''(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would have a significant adverse impact on reliability or commerce in other interconnections;

''(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that the entity rule or variance would be likely to cause a serious and substantial threat to public health, safety, welfare, or national security; or

''(iv) would create a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

''(C) NONINTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply only to part of an interconnection, the electric reliability organization shall approve the entity rule or variance if the affiliated regional reliability entity demonstrates that the proposal—

''(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would not have an adverse impact on commerce that is not necessary for reliability;

''(iii) provides a level of bulk-power system reliability that is adequate to protect public health, safety, welfare, and national security and would not have a significant adverse impact on reliability; and

''(iv) in the case of a variance, is based on a justifiable difference between regions or subregions within the affiliated regional reliability entity's geographic area.

''(D) ACTION BY THE ELECTRIC RELIABILITY ORGANIZATION.—

''(i) IN GENERAL.—The electric reliability organization shall approve or disapprove a proposal under subparagraph (A) within 120 days after the proposal is submitted.

''(ii) FAILURE TO ACT.—If the electric reliability organization fails to act within the time specified in clause (i), the proposal shall be deemed to have been approved.

''(iii) SUBMISSION TO THE COMMISSION.—After approving a proposal under subparagraph (A), the electric reliability organization shall submit the proposal to the Commission for approval under the procedures prescribed under subsection (e).

''(E) DIRECT SUBMISSIONS.—An affiliated regional reliability entity may not submit a proposal for approval directly to the Commission except as provided in subsection (e)(4).

''(4) FAILURE TO REACH DELEGATION AGREEMENT.—

''(A) IN GENERAL.—If an affiliated regional reliability entity requests, consistent with paragraph (1), that the electric reliability organization delegate authority to it, but is unable within 180 days to reach agreement with the electric reliability organization with respect to the requested delegation, the entity may seek relief from the Commission.

''(B) REVIEW BY THE COMMISSION.—The Commission shall order the electric reliability organization to enter into a delegation agreement under terms specified by the Commission if, after notice and opportunity for comment, the Commission determines that—

''(i) a delegation to the affiliated regional reliability entity would—

''(I) meet the requirements of paragraph (1); and

''(II) would be just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) the electric reliability organization unreasonably withheld the delegation.

''(5) ORDERS TO MODIFY DELEGATION AGREEMENTS.—

''(A) IN GENERAL.—On complaint, or on motion of the Commission, after notice to the appropriate affiliated regional reliability entity, the Commission may order the electric reliability organization to propose a modification to a delegation agreement under this subsection if the Commission determines that—

''(i) the affiliated regional reliability entity—

''(I) no longer has the capacity to carry out effectively or efficiently the implementation

or enforcement responsibilities under the delegation agreement;

''(II) has failed to meet its obligations under the delegation agreement; or

''(III) has violated this section;

''(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of the implementation or enforcement responsibilities under the delegation agreement;

''(iii) the geographic boundary of a transmission entity approved by the Commission is not wholly within the boundary of an affiliated regional reliability entity, and the difference in boundaries is inconsistent with the effective and efficient implementation and administration of bulk-power system reliability; or

''(iv) the agreement is inconsistent with a delegation ordered by the Commission under paragraph (4).

''(B) SUSPENSION.—

''(i) IN GENERAL.—Following an order to modify a delegation agreement under subparagraph (A), the Commission may suspend the delegation agreement if the electric reliability organization or the affiliated regional reliability entity does not propose an appropriate and timely modification.

''(ii) ASSUMPTION OF RESPONSIBILITIES.—If a delegation agreement is suspended, the electric reliability organization shall assume the responsibilities delegated under the delegation agreement.

''(iii) ORGANIZATION MEMBERSHIP.—Each system operator shall be a member of—

''(1) the electric reliability organization; and

''(2) any affiliated regional reliability entity operating under an agreement effective under subsection (h) applicable to the region in which the system operator operates, or is responsible for the operation of, a transmission facility.

''(j) ENFORCEMENT.—

''(1) DISCIPLINARY ACTIONS.—

''(A) IN GENERAL.—Consistent with procedures approved by the Commission under subsection (d)(4)(H), the electric reliability organization may impose a penalty, limitation on activities, functions, or operations, or other disciplinary action that the electric reliability organization finds appropriate against a bulk-power system user if the electric reliability organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the bulk-power system user has violated an organization standard.

''(B) NOTIFICATION.—The electric reliability organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a bulk-power system user that affected or threatened to affect bulk-power system facilities located in the United States.

''(C) RIGHT TO PETITION.—A bulk-power system user that is the subject of disciplinary action under paragraph (1) shall have the right to petition the Commission for a modification or rescission of the disciplinary action.

''(D) INJUNCTIONS.—If the electric reliability organization finds it necessary to prevent a serious threat to reliability, the electric reliability organization may seek injunctive relief in the United States district court for the district in which the affected facilities are located.

''(E) EFFECTIVE DATE.—

''(i) IN GENERAL.—Unless the Commission, on motion of the Commission or on application by the bulk-power system user that is the subject of the disciplinary action, suspends the effectiveness of a disciplinary action, the disciplinary action shall take effect on the 30th day after the date on which—

''(I) the electric reliability organization submits to the Commission—

''(aa) a written finding that the bulk-power system user violated an organization standard; and

''(bb) the record of proceedings before the electric reliability organization; and

''(II) the Commission posts the written finding on the Internet.

''(ii) DURATION.—A disciplinary action shall remain in effect or remain suspended unless the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the disciplinary action.

''(iii) EXPEDITED CONSIDERATION.—The Commission shall conduct the hearing under procedures established to ensure expedited consideration of the action taken.

''(2) COMPLIANCE ORDERS.—The Commission, on complaint by any person or on motion of the Commission, may order compliance with an organization standard and may impose a penalty, limitation on activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a bulk-power system user with respect to actions affecting or threatening to affect bulk-power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the bulk-power system user has violated or threatens to violate an organization standard.

''(3) OTHER ACTIONS.—The Commission may take such action as is necessary against the electric reliability organization or an affiliated regional reliability entity to ensure compliance with an organization standard, or any Commission order affecting electric reliability organization or affiliated regional reliability entity.

''(k) RELIABILITY REPORTS.—The electric reliability organization shall—

''(1) conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America; and

''(2) report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

''(l) ASSESSMENT AND RECOVERY OF CERTAIN COSTS.—

''(1) IN GENERAL.—The reasonable costs of the electric reliability organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation or enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the electric reliability organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all electric energy consumers.

''(2) RULES.—The Commission shall provide by rule for the review of costs and allocations under paragraph (1) in accordance with the standards in this subsection and subsection (d)(4)(F).

''(m) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

''(A) Activities undertaken by the electric reliability organization under this section or affiliated regional reliability entity operating under a delegation agreement under subsection (h).

''(B) Activities of a member of the electric reliability organization or an affiliated regional reliability entity in pursuit of the objectives of the electric reliability organization or affiliated regional reliability entity under this section undertaken in good faith under the rules of the organization of the electric reliability organization or affiliated regional reliability entity.

''(2) AVAILABILITY OF DEFENSES.—In a civil action brought by any person or entity against the electric reliability organization or an affiliated regional reliability entity alleging a violation of an antitrust law based on an activity under this Act, the defenses of primary jurisdiction and immunity from suit and other affirmative defenses shall be available to the extent applicable.

''(n) REGIONAL ADVISORY ROLE.—

''(1) ESTABLISHMENT OF REGIONAL ADVISORY BODY.—The Commission shall establish a regional advisory body on the petition of the Governors of at least two-thirds of the States within a region that have more than one-half of their electrical loads served within the region.

''(2) MEMBERSHIP.—A regional advisory body—

''(A) shall be composed of 1 member from each State in the region, appointed by the Governor of the State; and

''(B) may include representatives of agencies, States, and Provinces outside the United States, on execution of an appropriate international agreement described in subsection (f).

''(3) FUNCTIONS.—A regional advisory body may provide advice to the electric reliability organization, an affiliated regional reliability entity, or the Commission regarding—

''(A) the governance of an affiliated regional reliability entity existing or proposed within a region;

''(B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(C) whether fees proposed to be assessed within the region are—

''(i) just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(ii) consistent with the requirements of subsection (l).

''(4) DEFERENCE.—In a case in which a regional advisory body encompasses an entire interconnection, the Commission may give deference to advice provided by the regional advisory body under paragraph (3).

''(o) APPLICABILITY OF SECTION.—This section does not apply outside the 48 contiguous States.

''(p) REHEARINGS; COURT REVIEW OF ORDERS.—Section 313 applies to an order of the Commission issued under this section.

''(q) PRESERVATION OF STATE AUTHORITY.—

''(1) EXTENT OF AUTHORITY OF THE ELECTRIC RELIABILITY ORGANIZATION.—The electric reliability organization shall have authority to develop, implement, and enforce compliance with standards for the reliable operation of only the bulk-power system.

''(2) NO AUTHORITY WITH RESPECT TO ADEQUACY OR SAFETY.—This section does not provide the electric reliability organization or the Commission with the authority to establish or enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) NO PREEMPTION.—

''(A) IN GENERAL.—Nothing in this section preempts the authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within the State, so long as the action is not inconsistent with any organization standard.

''(B) CONSISTENCY DETERMINATION.—Not later than 90 days after the electric reliability organization or any other affected party submits to the Commission a petition for a determination that a State action is inconsistent with an organization standard,

the Commission shall issue a final order determining whether a State action is inconsistent with an organization standard, after notice and opportunity for comment, taking into consideration any recommendations of the electric reliability organization.

''(C) STAY.—The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.''.

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended—

(A) by striking ''subsection'' and inserting ''section''; and

(B) by striking ''or 214'' and inserting ''214, or 215''.

(2) CERTAIN PROVISIONS.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''or 214'' each place it appears and inserting ''214, or 215''.

By Mrs. BOXER:

S. 173. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers; to the Committee on Finance.

Mrs. BOXER. Mr. President, earlier this week I introduced a bill to require the Federal Energy Regulatory Commission to establish a Western Regional Rate Cap for the sale of electricity. This is a key component to bringing stability to the electricity market and an important step in solving California's electricity problems.

Today, I am introducing the second in a series of bills to deal with this matter. The Consumer Utilities Turnback, CUT, Trust Fund Act would impose a windfall profits tax on electricity generators, with the revenues from the tax going into a Trust Fund to provide rebates to consumers.

Between the second quarter of 1999 and the second quarter of 2000, the overall net income for electricity producers based outside of California who sell to California increased 333 percent. Let me also mention a couple of specific companies. These figures compare the net income of the first three quarters of 1999 with the net income of the first three quarters of 2000. For NRG Energy Inc., it was a 386 percent increase. For the AES Corporation, it was a 262 percent increase. And for Dynegy Inc., the increase was 269 percent.

While profits for producers are reaching record levels, consumers are being hit with higher prices. Recent action by the state's Public Utility Commission has resulted in increases in consumer electricity bills from 7 to 15 percent. While this action was done to help the state's utility companies in meeting the wholesale electricity costs, it means that consumers and businesses are shouldering the burden of the windfall profits being made by the generating companies.

As I mentioned, the CUT Act would impose a windfall profits tax on electricity generators. Each year, the Federal Energy Regulatory Commission, FERC, would calculate the average level of ''reasonable profit'' determined by state Public Utility Commissions in states in which such a determination is made. Any profit above this average level would be windfall profit and would be subject to a 100 percent windfall profits tax.

The monies raised from the tax would be placed in the CUT Trust Fund in order to provide rebates to consumers. Governors could request that FERC provide rebates for consumers and businesses because of high electricity costs. FERC would then be charged with distributing the rebates and would be required to provide refunds to consumers each year in an amount equal to the revenues of the windfall profits tax.

Mr. President, this legislation highlights the dramatic difference between the burden California consumers are facing and the bountiful harvest being reaped by electricity generating companies. In dealing with the electricity situation in California, we must always keep this in mind.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. BOND, Mr. WELLSTONE, Mr. CLELAND, Ms. LANDRIEU, Mr. HARKIN, Mr. LEVIN, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. ENZI, Mr. KOHL, and Mr. JOHNSON):

S. 174. A bill to amend the Small Business Act with respect to the microloan program, and for other purposes; to the Committee on Small Business.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introducing a bill to improve the Small Business Administration's Microloan Program, a program which makes a very big difference through very small loans of up to $35,000. We are very pleased that Senators BOND, WELLSTONE, CLELAND, LANDRIEU, HARKIN, LEVIN, LIEBERMAN, BINGAMAN, ENZI, and KOHL are joining us and cosponsoring this bill.

Senator SNOWE and I have worked together many times on this program, pushing to make sure our country's smallest businesses have access to capital and business assistance. The changes we are introducing today are not controversial, and they are not new. In fact, they should sound familiar to all but our newest colleagues. First, they were part of the microloan provisions in the Senate version of last year's SBA Reauthorization bill. Second, our Committee and the full Senate voted unanimously to pass them. Further, they were drafted in cooperation with the Administration and with the folks who make the loans and provide the business training. The National Association of SBA Microloan Intermediaries (NASMI) and its members were full partners in shaping this legislation in the 106th Congress.

These provisions were not included in the conference agreement on SBA's Reauthorization bill because the House Committee on Small Business wanted to postpone consideration of these changes until they could hold a hearing and their members could have a chance to weigh in on the program. I thank former House Small Business Committee Chairman Talent, and returning Ranking Member NYDIA VELÁZQUEZ, for working with us on the microloan changes.

These changes we are re-introducing today will make the SBA Microloan Program more flexible to meet credit needs, more accessible to microentrepreneurs across the nation, and more streamlined for lenders to make loans and provide management assistance. They complement the program and technical changes we made last year.

The Microloan Program Improvement Act of 2001 does the following:

It allows microintermediaries to offer revolving lines of credit. Currently, microloans are short-term loans. Eliminating this requirement will allow intermediaries greater latitude in developing microloan products that best meet their community's needs by offering borrowers revolving lines of credit, such as for seasonal contract needs. Congress does not intend for this flexibility to be used to make loans with long terms, such as 15 and 30 years.

It broadens the eligibility criteria for potential microintermediaries. Instead of requiring intermediaries to have one year of experience in making microloans to startup, newly established, or growing small businesses and providing technical assistance to its borrowers, this legislation would deem a prospective intermediary eligible if it has equivalent experience.

It expands flexibility to intermediaries to subcontract out technical assistance. Currently, intermediaries are limited to using 25 percent of their funds to assist prospective borrowers. This change allows an intermediary to allocate as much technical assistance as appropriate. This subsection also increases the percentage of technical assistance grant funds that an intermediary can use to subcontract out technical assistance. Currently, intermediaries can only subcontract 25 percent, and this legislation would raise it to 35 percent.

It establishes a peer-to-peer mentoring program to help new intermediaries provide the best possible service to microentrepreneurs. Specifically, SBA would be allowed to use up to $1 million of annual appropriations for technical assistance grants to provide peer-to-peer mentoring by subcontracting with one or more national trade associations of SBA microlending intermediaries, or subcontracting with entities knowledgeable of and experienced in microlending and related technical assistance. As Congress increases the number of lending intermediaries around the country to reach more people, we want to make sure that new intermediaries have the benefits of lessons learned by other more

experienced lending intermediaries. Because the microlending industry is still very young, there are few sources of conventional training available to prospective and new intermediaries. According to the National Association of SBA Microloan Intermediaries, experienced SBA microlenders are called upon frequently to assist new intermediaries in addressing issues with their loan fund, from financial management and marketing to targeting loan funds effectively to a population or business sector. While these experienced intermediaries do their best to respond to the needs of their colleagues, they currently lack the resources to respond effectively and efficiently to the growing needs of the field.

Before I wrap up my statement, I would like to quickly run through the changes we made and that President Clinton signed into law on December 21.

Increases the maximum loan amount from $25,000 to $35,000;

Increases the average loan size for each intermediary's portfolio from $10,000 to $15,000 and increases the average loan size for specialty lenders from $7,500 to $10,000;

Raises the threshold for the comparable credit test from $15,000 to $20,000;

Increases the number of non-lending technical assistance (TA) providers from 25 to 55 and raises the maximum grant amount to each TA provider from $125,000 to $200,000; and,

Increases the number of intermediaries SBA is authorized to fund from 200 to 300.

Mr. President, I ask for 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. 174

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 ''Microloan Program Improvement Act of 2001''.

SEC. 2. MICROLOAN PROGRAM.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(i), by striking ''short-term,'';

(2) in paragraph (2)(B), by inserting before the period '', or equivalent experience, as determined by the Administration'';

(3) in paragraph (4)(E)—

(A) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—Each intermediary may expend the grant funds received under the program authorized by this subsection to provide or arrange for loan technical assistance to small business concerns that are borrowers or prospective borrowers under this subsection.''; and

(B) in clause (ii), by striking ''25'' and inserting ''35''; and

(4) in paragraph (9), by adding at the end the following:

''(D) PEER-TO-PEER CAPACITY BUILDING AND TRAINING.—The Administrator may use not more than $1,000,000 of the annual appropriation to the Administration for technical assistance grants to subcontract with 1 or more national trade associations of eligible intermediaries, or other entities knowledgeable about and experienced in microlending and related technical assistance, under this subsection to provide peer-to-peer capacity building and training to lenders under this subsection and organizations seeking to become lenders under this subsection.''.

(b) CONFORMING AMENDMENT.—Section 7(m)(11)(B) of the Small Business Act (15 U.S.C. 636(m)(11)(B)) is amended by striking ''short-term,''.

Ms. LANDRIEU. Mr. President, I rise today to bring the attention of the Senate to legislation vitally important to the success of the Microloan Program of the Small Business Administration. Congress created the Microloan Program to reach small businesses not being served by traditional lenders or other credit programs within the SBA. This program has successfully helped micro entrepreneurs, many of whom are minorities, women and low-income individuals, who otherwise would have been unable to achieve their goal of owning their own business. Due to weak or, merely, non-existent credit histories and limited borrowing experience, they were often labeled as unreliable or risky borrowers by traditional credit markets and, hence, unable to obtain loans to start businesses.

To address this need and to fill the gap in micro enterprise lending, the Microloan Program was created to provide loans to non-profit intermediary lenders who, in turn, provide loans under $35,000 to very small businesses. In addition to financial resources, intermediary lenders provide technical assistance to these business owners, teaching them how to manage and run a successful business. Industry experts and micro borrowers have testified that supplementing financing with technical assistance is critical to the success of the micro enterprise and the likelihood of loan repayment.

Not only crucial to the development of the business of the micro borrower, micro loans also serve to strengthen and build communities, both growing and those in need of resurgence. To date, lending intermediaries have made 10,230 loans, worth in the range of $105 million. This money and business activity is stimulating many communities. As importantly, loans made by this Program have created new jobs. The Small Business Administration reports that for every loan made, 1.7 jobs have been created. Given the number of loans, this calculates to approximately 17,391 new jobs to strengthen the vitality of our communities.

The legislation I am cosponsoring today makes programmatic and technical changes to the Small Business Administration's Microloan Program, making it more flexible. This flexibility will help the Program meet more credit needs, be more accessible to micro entrepreneurs across the country, and streamline procedures which increase lenders' ability to make loans and provide technical assistance to micro entrepreneurs.

The Microloan Program has had substantial achievements. In South Carolina, a small retail establishment's owner wished to sell his outlet to an employee, but traditional lenders balked. The Microloan Program gave the employee the helping hand he needed with a micro loan. He paid that initial loan back early, and a second micro loan, as well. The banks now knock on his door. In Virginia, a woman, whose husband became disabled and unable to support the family, used a micro loan to start a used car dealership. That business has succeeded. So much so that she has established a program in her community that helps other women get off welfare by providing the automobile transportation to get to and from work. I want to be able to cite similar examples in my own State of Louisiana. In Louisiana, currently, we do not have any micro lenders enrolled in the Program. However, I have fought for increased funding to make sure the Program is adequately funded so that nationwide we can provide more micro loans and technical assistance. In the last Congress, I voted for legislation that increased the number of intermediaries authorized from 200 to 300 so that we can reach more micro entrepreneurs across the country.

And today, the proposed legislation will make the necessary changes to increase the attractiveness of the Program to prospective micro lenders in Louisiana and elsewhere around the country. The legislation being introduced today would broaden the eligibility criteria for intermediaries in an effort to bring lenders into the Program. This legislation would allow for intermediaries to have equivalent lending experience, rather than requiring exact micro lending experience. In addition, this legislation increases the amounts intermediaries can use to subcontract technical assistance, thus easing the burden on lenders in providing technical assistance. This legislation should encourage intermediaries to get involved in the SBA's Microloan Program in Louisiana. I urge lenders in my State to take note of the need for their future involvement in this Program. They could make big differences in their communities by making very small loans.

I have consistently supported this Program since joining the Committee on Small Business, and will continue to do so because of the many benefits that the Microloan Program can provide to micro entrepreneurs and our communities. Passage of this legislation can continue the successes of the Microloan Program and extend its reach into many other communities, such as those in Louisiana. I thank Senator KERRY and Senator SNOWE for their leadership on this legislation and encourage the Committee to act on this bill as soon as practicable.

By Mrs. HUTCHISON:

S. 175. A bill to establish a national uniform poll closing time and uniform treatment of absentee ballots in Presidential general elections; to the Committee on Rules and Administration.

S. 176. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation that will make much needed changes to our Presidential election system.

If there was one message to come from the thirty-six day ordeal over counting the votes in this Presidential election—it was that reforms are needed in the manner of national elections.

My bill would first establish a uniform poll closing time for the nation. I believe that 9 p.m. central standard time is the most appropriate time we can choose. The polls in California would close at seven. The polls in the east would close at ten. A uniform poll closing time is preferable to any kind of news blackout over election results. We live in a free society—we cannot withhold election results.

But, in this time of instant communication, we cannot let news reporting affect our voting patterns. We all recall the 1980 election, when President Carter's early concession demoralized West Coast voters who thought their vote no longer counted. In this last election, we watched the state of Florida get called, when a significant part of the state had not even closed its polls. A uniform poll closing time, in my view, is the only way to avoid a repeat of this problem.

A second difficulty that surfaced during this election cycle is the counting of absentee ballots and mail-in ballots. Some states have moved to vote by mail. But I don't believe that in a national election, we can wait on the outcome of an election through such means. A major industrial nation, in the twenty-first century, shouldn't have to wait days or weeks to determine who won an election. Literally, the fate of the Presidency and the Senate depended on the counting of absentee and mail-in ballots days after the election was held. My legislation would require that, for Presidential elections, all ballots would have to be processed and recorded by election day. States can reserve the right to have mail-in voting. But it must be done in a manner that is respectful of the nation's right to know who the next President will be.

Finally, and most importantly, I want to improve the treatment that overseas military absentee ballots are granted. We ask a lot of our men and women serving overseas. They put their lives on the line to protect our democratic values. And I was stunned to see their ballots cast aside like rubbish, purely for political opportunism, and secondly, because of so called ''technicalities.'' It was an insult to our armed forces. Never again should this happen. I will make sure that the 107th Congress acts to make sure it never happens again.

In the past Congress has worked on this problem, but apparently we did not go far enough. We created a uniform absentee ballot for our military, if they couldn't get a ballot from their home state in a timely manner. We directed the Secretary of Defense to serve as the primary executive branch official charged with enforcing this Federal law.

My legislation would broaden the Secretary's authority—and give him the power to develop, in consultation with the states, a standard, uniform method of treating ballots in Federal elections that come from our military serving overseas. This way, no soldier or sailor or airman serving overseas will have his or her vote disenfranchised because of a patchwork of fifty state laws with respect to absentee ballots. They protect our democracy. We have to protect their right to participate in it.

Election reform will be an important issue for this Congress. There will be many proposals. I know that Senator MCCONNELL, Chairman of the Rules Committee, will have a proposal to modernize voting procedures and machinery across our nation. I am certain that some of the reforms I am offering today will become part of the debate.

Today, I am also introducing the Campaign Finance and Disclosure Act of 2001, legislation that I believe addresses the most significant problems in our present system of Federal campaign finance laws.

The bill will help level the playing field between challengers and incumbents and will target those areas of the law that have been subject to abuse and excess, without imposing a new, untested system of taxpayer funded campaign subsidies and regulations.

I am today proposing a set of relatively simple and workable reforms that will curb the abuses undermining public confidence in the present system, that will make congressional races more competitive, and that will help return control of federal campaigns and elections to their rightful owners—the individual voters in our respective states.

First, the bill requires that at least 60 percent of a Senate or House candidate's campaign funds come from individual residents of his or her state or congressional district. This will put the emphasis of fund-raising back home where it belongs, and will assist challengers, who rely more heavily on individual contributors.

In addition, the bill will end the powerful incumbent advantage of the mass mail franking privilege for Senators during the year in which they are seeking re-election.

Next, the bill increases the individual contribution limit from $1000 to $3000, per candidate, per election, while addressing the precipitous rise in the role of PACs in our existing system.

PAC contributions to congressional candidates grew from $12.5 million in 1974 to almost $200 million in 1996, a constant dollar increase of over 400 percent. Moreover, almost 70 percent of that $200 million went to incumbents, further serving to tilt the system against challengers. While PACs can and should continue to provide a vehicle for groups of like minded individuals to leverage their support of particular candidates, this should not be allowed to undermine the candidate/voter relationship. The bill will help control this growing PAC influence by also limiting PAC contributions to $3000, the same limit as individuals under my bill.

To help encourage candidates of average means to run for office against their wealthier opponents, the bill limits to $250,000 the amount a Senate campaign may reimburse a candidate, including immediate family, for loans the candidate makes to the campaign.

The Campaign Finance and Disclosure Act of 2001 will also prohibit, once and for all, several abuses of the law that now plague our system: campaign contributions by non-citizens will be banned; the use of campaign funds for purposes that are inherently personal in nature will be denied; political parties will be prohibited from accepting contributions earmarked for specific candidates; and union members will be entitled to be made aware of, and to decline to contribute to, the rapidly growing political activities of their unions.

Finally, the bill will encourage, not restrict, the volunteer-staffed political party building, ''get-out-the-vote,'' and other candidate support activities of state and local political parties that constitute the core of grassroots politics in America. These critical activities will be given greater latitude under the law by excluding them from the definition of campaign contributions.

I realize that campaign finance reform is a contentious issue. However, if we are to restore the American people's confidence in the political process and make it more responsive to voters and accessible to candidates, we must take a hard look at those rules and attempt to fix what is broken. The Campaign Finance Reform and Disclosure Act does just that, and in a way that I believe can garner the support of a decisive majority of Congress.

Mr. President, both of these bills address issues that were raised during the campaign. I wanted to put these ideas forward today so that they can become part of the debate when we consider these issues.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. BAUCUS, and Mr. DURBIN):

S. 171. A bill to repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes, to the Committee on Foreign Relations.

Mr. DORGAN. On behalf of myself, Mr. ROBERTS, Mr. BAUCUS, and Mr.

DURBIN, I introduce a piece of legislation today that deals with the repeal of certain travel provisions or restrictions and certain trade sanctions with respect to Cuba.

Last year, in the Senate Appropriations Committee, I offered legislation dealing with removing the embargo that exists on the shipment of agriculture commodities around the world.

The fact is, we have some people around the world we don't like. We say: We are going to punish you.

We don't like Saddam Hussein. We say: The way to punish you is, we are going to slap an embargo on your country, and in that embargo we are going to include food and medicine. We say the same to the leaders of Libya, Cuba and North Korea.

It has been my strong feeling that we ought never have an embargo on the shipment of food and medicine to anywhere in the world. With those embargoes, we shoot ourselves in the foot. When we don't sell food to those countries, other countries will sell food to them. Why on Earth would we ever want to use food as a weapon? I thought we put that behind us 20 years ago. Yet we continue to do it with respect to certain undesirable countries.

I offered legislation in the appropriations bill last year. It came to the floor of the Senate, and we moved through the Senate into conference. We had a lot of discussion about it. The fact is, we made some progress, essentially lifting sanctions and embargoes on the shipment of food and medicine to Iran, Libya, Sudan and North Korea. But there is more yet to do. In conference we got stiffed by some interests who decided at they wanted to even take a step backward with respect to the ban on travel to Cuba. They took the legislation we enacted and added to it a further restriction by codifying all the restrictions that now exist on travel to Cuba and preventing a President from loosening the travel restrictions. They have written these restrictions into law, which makes them tighter. That made no sense. They also added provisions that ban all American financing, even private financing, for agricultural sales to Cuba. That is a step backward, not forward.

Let me read what two Members of the House who represent south Florida said when this was passed:

> The prohibition will make it as difficult as is possible to make agricultural sales to Cuba.
>
> Closing off Clinton's tourism option for Castro is our most important achievement in years. We are extremely pleased.

I understand why they are pleased. I am not. What was done by this Congress and just by a few people was wrong. We ought not make it difficult to sell food or move food or medicine to Cuba or anywhere else in the world for that matter. It is not in our interest, and it is not in the interest of others around the world for us to behave in that manner.

Does anyone think, as I have asked repeatedly, that Fidel Castro or Saddam Hussein or others miss a meal because we have decided that we will not ship agricultural products or food to Iraq, Cuba? Does anybody think they have missed a meal? All these policies do is punish poor people and hungry people and sick people. This country is better than that. We ought to start acting like it. This Congress ought to provide policies that say when 40 years of embargo to Cuba do not work, it is time to change the policy.

I happen to support lifting the embargo completely. But now we are just talking about the first piece: allowing the shipment of food and medicine to Cuba.

Then there is the issue of travel to Cuba. How on Earth can one make the claim that travel and exchange and movement between the United States and Cuba somehow undermines our interests? It does not. In my judgment, the more contact, the more travel, the more movement there is between the United States and Cuba, the more we will undermine the interest of the Communist Government of Cuba. That, after all, ought to be our objective.

Our objective ought to be to find ways to see if we can't create a new circumstance by which we persuade the Cuban Government to be open, democratic, and give the people of Cuba an opportunity for the freedoms they deserve. We have had an embargo for Cuba for 40 years. It has not worked.

There comes a time when you say something that hasn't worked for 40 years ought to be changed. This is a baby step in making the change that is needed. Even at that, we faced significant problems last year.

There are a number of people in the Senate who have worked on these issues for a long while. Senator ROBERTS, Senator DODD, former Senator Ashcroft, myself, and others have worked on these issues dealing with agriculture and travel and other issues for a long while. Senator ROBERTS is on the floor. I know he visited Cuba some months ago. I also have visited Cuba. I found it unthinkable, standing in a hospital in an intensive care room one day with a little boy who was in a coma, he had been in an accident, hit his head, was in a coma. He was in an intensive care room. There were no machines. I have been in intensive care rooms and have heard the rhythm of machinery pumping life into patients. Not in that room because they don't have the equipment. This little boy had his mother by his bedside holding his hand. They told me at that hospital they were out of 240 different kinds of medicines—240 different medicines they didn't have. They were out of it.

I am sitting there thinking, how could it serve any interest, any public policy purpose, to believe that our withholding the shipment of prescription drugs to Cuba is somehow advancing anybody's interest? It is simply unthinkable. The same holds true with food. Our farmers toil in the fields of this country and they produce a product that is needed around the world. We are told that half of the world goes to bed with an ache in their belly because it hurts to be hungry. A quarter of the world is on a diet. Then we have farmers here in America struggling to find gas to put in a tractor to plow the ground, to plant a seed, to raise a crop, only to go to the elevator in the fall and be told the crop has no value because there is an oversupply of crops.

The farmer hears the debate over the embargoes and sanctions we have against countries because we don't like their leaders. We won't ship food and the farmer get hurt. You talk about a policy that is grounded in foolishness—this is it. More than foolishness, it is cruel. It is not what represents the best of this country. This country is a world leader. This country produces food in prodigious quantity. It is something the rest of the world desperately needs. To withhold it anywhere in the world is unbecoming of this country.

On a moral basis, this country has a responsibility to always, always decide that the shipment of food and medicine is going to be available anywhere in the world and that we are not going to have embargoes that include the withholding of medicines anywhere in the world. Dictators will always get something to eat and medicines to treat their diseases. Our policy punishes the sick, hungry, and poor people. It ought to stop.

The bill I introduce today for myself, Senators ROBERTS, BAUCUS, and DURBIN simply rescinds those provisions of the FY 2001 Agriculture Appropriations Act that tightened sanctions on Cuba.

I know I have been on the floor a lot talking about these issues, but I feel strongly about them. We have the opportunity in this Congress to undo what we did last year—undo the bad parts. We did make some progress last year. Yes, we made some progress, but not enough. I want our policy to be unequivocal and plain, that nowhere in this world, anywhere, in our relationships in the world, will we use food or prescription drugs, or medicine, as a weapon. That would represent the best of this country's instincts.

In my judgment, it will be accomplished when we have the opportunity to vote on it. The fact is, there are 70 or 80 votes in the Senate by people who believe in that position. We have just a few hard-core folks that are still living in the fifties. They drive up here in new cars, wear new suits, but they are living in the fifties, serving in the Congress in 2001, still pushing policies that don't work. A few people, a small cabal of people in this Congress, have prevented us from doing what we all know we should do, eliminate these kinds of sanctions and embargoes anywhere in the world.

Mr. President, I am happy to have introduced this today. I hope colleagues will carefully consider it.

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:

S. 171

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

SECTION 1. REPEAL OF CERTAIN TRADE SANCTIONS AND TRAVEL PROVISIONS.

(a) REPEALS.—Sections 908 and 910 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (as enacted by section 1(a) of Public Law 106–387) are hereby repealed.

(b) CONFORMING AMENDMENT.—Section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (as enacted by section 1(a) of Public Law 106–387) is amended by striking ''to Cuba or''.

Mr. ROBERTS. Mr. President, I rise today with my colleague from North Dakota to introduce legislation to remove several trade limiting provisions from the FY 2001 Agriculture Appropriations Bill. Although the intent may have been otherwise, the overall effect was to tighten existing prohibitions on trade with and tourist travel to Cuba.

Specifically, the purpose of the Dorgan-Roberts bill is to make changes to Title 9 of the FY 2001 Agriculture Appropriations Bill, repealing sections 908 & 910 and making a small change to section 906.

Title 9, as you recall, is also known as the Trade Sanctions Reform & Export Enhancement Act. It made a number of important strides toward ending the misguided policy of using unilateral food and medicine sanctions as a foreign policy tool. Title 9, for example, terminates current unilateral agricultural and medical sanctions and requires congressional approval for any new unilateral sanctions that Presidents may consider in the future. That is the good news about last year's effort.

The bad news is that sections 908 effectively cancels U.S. agricultural trade with Cuba as it prohibits any U.S.-based private financing or the application of any U.S. Government agricultural export promotion program. The de facto effect of this provision is to keep the Cuban market cut-off from America's farmers. This is unacceptable to me.

Also, section 906 permits the issuance of only one-year licenses for contracts to sell agricultural commodities and medicine to Cuba but places no such restriction on Syria and North Korea. What's the policy? What kind of confused message is this? We are either going to permit the sale of food and medicine to all nations despite the presence of some on the State Department terrorist list or we are not going to encourage the sale of food and medicine to all Nations. Let us be consistent in these matters.

Finally, we seek to rescind section 910 which codified prohibitions against tourist travel or tourist visits to Cuba. This travel ban stifles the most powerful influence on Cuban society: American culture and perspective, both economic and political.

When Americans travel, they transmit our nation's ideas and values. That is one reason why travel was permitted to the Soviet Union and is permitted to the People's Republic of China. A tourist travel ban is simply counterproductive.

Trade with Cuba is a very sensitive issue with reasonable, well-intentioned people on both sides. But it is an issue which must be addressed as globalization and the aggressive posture of America's trade competitors increases. We can no longer sacrifice the American farmer on the altar of the cold war paradigm.

Mr. BAUCUS. Mr. President, I am pleased to be an original co-sponsor of Senator DORGAN's bill that repeals the restrictions on food and medicine exports to Cuba and removes the legal stranglehold that has been put on liberalizing travel to Cuba.

In July of last year, I led a Senate delegation to Havana. It was a brief trip, but we had the opportunity to meet with a wide range of people and to assess the situation first-hand. We met with Fidel Castro. We spent three hours with a group of heroic dissidents who spent years in prison, yet have chosen to remain in Cuba and continue their dissent. We also met with foreign ambassadors, cabinet ministers, and the leader of Cuba's largest independent NGO.

I left Cuba more convinced than ever that we must end our outdated Cuba policy. Last year, I introduced legislation to end the embargo and begin the process of normalization of our relations with Cuba. I will reintroduce similar legislation this year.

The trade embargo of Cuba is a unilateral sanctions policy. Not even our closest allies support it. I have long opposed unilateral economic sanctions, unless our national security is at stake, and the Defense Department has concluded that Cuba represents no security threat to our nation.

Unilateral sanctions don't work. They don't change the behavior of the targeted country. But they do hurt our farmers and business people by preventing them from exporting, and then allowing our Japanese, European, and Canadian competitors happily to rush in to fill the gap.

Ironically, the U.S. embargo actually helps Castro. His economy is in shambles. The people's rights are repressed. These are the direct results of Castro's totally misguided economic, political, and social policies. Yet Fidel Castro is able to use the embargo as the scapegoat for Cuba's misery. Absurd, but true.

We should lift the embargo. We should engage Cuba economically. The bill we are introducing today is a good first step. We tried to remove restrictions on food and medicine exports last year, but a small minority in the Congress prevented the will of the majority. And they compounded the damage by codifying restrictions on travel, that is, removing Presidential discretion to allow increased travel and promote people-to-people contact between Americans and Cuban citizens.

Removing the food and medicine restrictions won't lead to a huge surge of American products into Cuba. But, today, Cuba's imports come primarily from Europe and Asia. With this liberalization, U.S. products will replace some of those sales. Our agriculture producers will have the advantage of lower transportation costs and easier logistics. It will be a start.

Allowing for the expansion of travel will increase the exposure of the Cuban people to the United States. It will result in more travel by tourists, business people, students, artists, and scholars. It will bring us into closer contact with those who will be part of the leadership in post-Castro Cuba. It will spur more business, helping, even if only a little, the development of the private sector. Moreover, we need to restore the inherent right of Americans to travel anywhere.

The world has changed since the United States initiated this embargo forty years ago. I am not suggesting that we embrace Fidel Castro. But if we wait until he is completely gone from the scene before we start to develop normal relations with leaders and people in Cuba, the transition will be much harder on the Cuban people. Events in Cuba could easily escalate out of control and become a real danger to the United States.

I need to stress that a majority of members of Congress, in both the Senate and the House, supported these initial steps to end the embargo. By overwhelming votes in both Houses last year, we approved an end to unilateral sanctions on food and medicine exports to Cuba. But the will of the majority was stopped by a few members of Congress. This legislation will correct that.

I hope to see the day when American policy toward Cuba is no longer controlled by a small coterie of leaders in the Congress along with a few private groups, and, instead, our policy will serve the national interest. Today's bill is a good first step.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. DASCHLE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 7, a bill to improve public education for all children and support lifelong learning.

S. 9

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 9, a bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes.

S. 11

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor