from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 730 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 730 proposed to H.R. 1836, supra.

At the request of Mr. HARKIN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 730 proposed to H.R. 1836, supra.

AMENDMENT NO. 731

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 731 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 731 intended to be proposed to H.R. 1836, supra.

AMENDMENT NO. 733

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 733 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 740

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 740 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 742

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 742 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 743

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 743 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 744

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 744 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 746

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 746 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 747

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 747 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 748

At the request of Mr. NELSON of Florida, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Florida (Mr. GRAHAM) were added as a cosponsors of amendment No. 748 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 748 proposed to H.R. 1836, supra.

AMENDMENT NO. 753

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 753 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 756

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 756 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 757

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 757 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 758

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 758 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 759

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 759 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 760

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 760 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 761

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 761 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BYRD, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CLELAND, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 924. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, authority for the community policing program has expired, and I rise today to introduce legislation to extend that hugely successful program for another six years.

We created this program in 1994 as part of that year's crime bill. The COPS program has worked better than any of us could have hoped. Crime has gone down every year since the program has been in existence. We have invested over $7.5 billion to make our streets safer. 115,000 officers will be funded by the end of this fiscal year. 73,600 of those officers are on the beat today, over 200 of them in my own state of Delaware. Grants have been issued to more than 12,400 law enforcement agencies. Big cities and small towns have benefitted, and more than 82 percent of all COPS grants have gone to departments serving populations of 50,000 or less.

Community policing methods are taking hold across the country. A recent Justice Department study revealed that the number of community police officers nationwide increased by 400 percent between 1997 and 1999. Schools are benefitting: by the end of this fiscal year COPS will have funded almost 5,000 school resource officers. These are specially trained officers who work in schools to prevent crimes before they occur, mentor students, and assist school administrators in creating a safe learning environment. Since COPS started funding school resource officers, their numbers across

the country have shot up more than 40 percent.

When we passed the crime bill in 1994, we set a goal of funding 100,000 officers by 2000. That goal has been met. But the need for more officers, for technology to help those officers do their job more efficiently, and for more prosecutors so the cases investigated by the police can effectively be brought, continues unabated. The Justice Department reports that in the last two fiscal years, demand for new police hiring grants has outstripped available funds by a factor of almost three to one. To meet this need, the legislation I introduce today authorizes $600 million per year over the next 6 years, enough to hire up to 50,00 more officer. We have made this portion of the program more flexible: up to half of these hiring dollars can be use to help police departments retain those community police officers currently on payroll. In another change from current law, portion of these funds can be used for officer training and education.

The legislation also provides funding for new technologies, so law enforcement can have access to the latest high-tech crime fighting equipment to keep pace with today's sophisticated criminals. Also included are funds to help local district attorneys hire more community prosecutors. These prosecutors will expand the community justice concept and engage the entire community in preventing and fighting crime. The statistics we have on community prosecutions are quite promising, and we should increase the funds available to local prosecutors, a piece of our criminal justice puzzle that has too often gone overlooked.

We need to pass this bill. Already the administration has announced its intention to end the police hiring program, to dramatically scale back the community prosecution program, and to cut other critical state and local law enforcement programs. That is not the right approach. Crime is down, but it will not stay down. Preliminary FBI crime reports for 2000 indicate that we may be reaching the end of our eight straight years of decreasing crime. Last December, the FBI reported that crime was down in most big cities, but up in cities of less than 50,000 people. It was up 1.2 percent in the South, the nation's most populous region. Several of our largest cities have reported increases in their murder rates. Crime will not stay down, unless we dedicate the resources necessary for state and local law enforcement to do their job effectively.

This bill has the support of every major law enforcement organization in the country. Fifty senators are original cosponsors of the legislation, including five Republicans. I want to pay a special tribute to my friends on the other side of the aisle and thank them for listening to their mayors, police chiefs, and officers who told them this is the right thing to do. We should not play politics with public safety, and I hope we can pursue common-sense crime-fighting proposals without regard to party.

I would like to thank the men and women of law enforcement for their service and heroism in bringing about the longest lasting decrease in crime in this nation's history. Let's build on that success, and let's continue to give them the support they deserve, by reauthorizing the COPS program.

I ask unanimous consent that the text of the bill, as well as several letters supporting its introduction, be printed in the RECORD.

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

S. 924

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 ''Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods Act of 2001'' or ''PROTECTION Act''.

SEC. 2. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after ''Nation'' the following: '', or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community policing efforts''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (C), by—

(i) striking ''or pay overtime''; and

(ii) striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to—

''(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

''(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

''(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7) by inserting ''school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time

crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

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

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2002;

''(ii) $1,150,000,000 for fiscal year 2003;

''(iii) $1,150,000,000 for fiscal year 2004;

''(iv) $1,150,000,000 for fiscal year 2005;

''(v) $1,150,000,000 for fiscal year 2006; and

''(vi) $1,150,000,000 for fiscal year 2007.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''1701(f)'' and inserting ''1701(g)'';

(C) by striking the second sentence and inserting ''Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.'';

(D) by striking ''85 percent'' and inserting ''$600,000,000''; and

(E) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).''.

POLICE EXECUTIVE RESEARCH FORUM,
Washington, DC, May 17, 2001.

Hon. JOSEPH BIDEN, JR.,
U.S. Senate,
Washington, DC.

DEAR JOE: On behalf of the members of the Police Executive Research Forum (PERF), a national organization of police professionals who serve more than 50 percent of our nation's population, I wish to express our continued support of your plans to adequately fund and reauthorize the COPS Office and its many critical programs.

The COPS program has been a highly successful crime-fighting initiative. The vast majority of COPS grant recipients have put those funds to unprecedented good use. With COPS funding, PERF members have hired more officers, purchased critical technology, implemented innovative problem-solving programs, and received valuable training and technical assistance, all of which have played an important role in advancing community policing across the country. But the COPS Office's work is far from over.

Providing the citizens in our jurisdictions with safe communities requires resources beyond local reach. The COPS program's sole mission is to respond to the needs of local law enforcement and it has delivered much-needed resources in the fight against crime. Through this partnership with the federal government, we have made tremendous advances in community policing. We have always called for multi-year reauthorization and full funding for this critical program.

PERF would welcome the opportunity to work with you to increase the flexibility of COPS hiring funds and otherwise ensure the COPS programs' long-term success. We thank you for your tireless support of law enforcement.

Sincerely,

CHUCK WEXLER,
Executive Director.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Washington, DC, May 3, 2001.

Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate,
Washington, DC.

DEAR JOE: Please be advised that the National Association of Police Organizations (NAPO) will be strongly supporting your reintroduction of S. 1760, the ''PROTECTION Act.'' NAPO, representing 4,000 unions and associations and 230,000 sworn law enforcement officers, truly appreciates your effort to reauthorize and continue the success of the COPS program.

As you know, NAPO strongly supported the passage of the 1994 Crime bill creating the COPS program. Since its inception the COPS program has funded grants for over 110,000 community police officers. Most law enforcement officials and the public recognize the benefits of putting more cops on the street. The steady decline of violent crime over the last few years is evidence of the success of this program.

We support your legislation that will extend the COPS program for another six years and put up to 50,000 more police officers on our streets and in our neighborhoods to continue the success of community policing. We also strongly support the funding of educational scholarships for active law enforcement officers and new technology to help fight crime.

NAPO is cognizant of the fact that we must not become complacent with our past success. There is still a lot of work to be done and we will continue to fight with you for the resources needed to serve our communities adequately. NAPO's position is that the declining crime rate is not an excuse to disband the COPS program, but an opportunity to hire more officers to further fight

and decrease violent crime that still permeates many of America's communities.

If I can be of assistance on this or any other matter, please have your staff contact me at (202) 842–4420.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
Alexandria, VA, May 4, 2001.

Hon. JOE BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On behalf of the entire membership of the International Brotherhood of Police Officers (IBPO), I want to thank you for introducing legislation to reauthorize the Community Oriented Policing Services (COPS) program.

As the author of the 1994 Crime Bill you understand the significance of the COPS program. Every crime statistic available shows that America is a safer place to live since we implemented the COPS program. The COPS program enables communities to combat crime in the most effective way possible—by putting more officers on the street.

I understand that they are opponents to the COPS program. I urge them to talk to police officers in their states. The IBPO believes that public safety is far too important to be caught up in political debate. It would be a tragedy to cut back on any efforts to fight crime at this critical juncture.

As the largest police union in the AFL–CIO, we have first hand knowledge of what a success the COPS program is. We look forward to working with you on this most important piece of legislation.

Sincerely,

KENNETH T. LYONS,
National President.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, May 21, 2001.

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

DEAR SENATOR BIDEN: I am writing to you regarding the Community Oriented Policing Services (COPS) program and your bill, the Protection Act. We at the National Sheriffs' Association (NSA) support COPS and we appreciate the commitment made to law enforcement by Congress.

As you may know, sheriffs around the nation depend on the COPS program to supplement their law enforcement capabilities. Sheriffs need the additional funding provided so that they can better protect and serve their communities. The COPS program has been an overwhelming success and has had a tangible and positive impact on crime reduction. Nearly two-thirds of the sheriffs offices in the Nation have benefited from grant funding from this program and the added funding has made a significant difference in how we enforce the law. A sheriff with a COPS grant can fight and control crime while a sheriff without a grant is at the mercy of the criminal. With the added capability that a COPS grant provides, we have reduced crime, streets are safer and honest law-abiding people feel secure in their communities.

NSA supports a flexible COPS program that allows sheriffs to determine their own needs and apply for funds accordingly. Sheriffs have overwhelming technology needs that can be addressed through the COPS technology grant programs. These programs have helped sheriffs purchase state-of-the-art computer technology and communications equipment. In this information age, it is more important than ever that we strive to achieve telecommunications and systems compatibility among criminal justice agencies, improve our forensic sciences capability at the state and local level and encourage the use of technologies to predict and prevent crime. All of these will give law enforcement the advantage over criminals. The total package of law enforcement support that COPS provides is an integral part of crime control in America.

In our view, COPS is a program that is vital to effective law enforcement and to sheriffs in both rural and urban jurisdictions. Without COPS, I firmly believe our communities would be a little less safe and a little more dangerous. Thank you again for your commitment to reducing crime. Know that NSA will do our part in the fight against crime and given the proper resources, we can truly make a difference.

Sincerely,

JERRY ''PEANUTS'' GAINES,
President.

By Mr. WELLSTONE:

S. 925. A bill to amend the title XVIII of the Social Security Act to provide a prescription benefit program for all medicare beneficiaries; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise to introduce long overdue legislation that will bring affordable prescription drugs to all Medicare beneficiaries. This legislation is the Medicare Extension of Drugs to Seniors, MEDS, Act of 2001.

For a good period of the time that I have been a Senator, the Federal Government has operated with budget deficits. The goal during that period was deficit reduction, while protecting the programs that are important for people. I had hoped that when the economy began to do better, and we began to see surpluses, that finally, as a Senator from Minnesota, I would be able to do really well for people. It would not just be stopping the worst, it would be doing the better.

Unfortunately, what we have this year in Washington instead is a choice. Either you are in favor of Robin-Hood-in-reverse tax cuts, with as much as 40 percent of the benefits going to the top 1 percent of earners. Or you are in favor of making an investment above and beyond reducing the debt and protecting Social Security and Medicare. I am one who favors making investments in people, for making sure that there is opportunity for all, quality education for all our children and young people, quality and affordable housing, that we honor our commitments to our veterans, that we reform mental health and achieve parity for mental health and addiction treatment services, that we help women out of domestic violence. And that we make sure that the senior citizens who built this country are able to afford prescription drugs.

Everyone in Congress knows there is a need for more affordable prescription drugs. Everyone in Congress knows that the surplus is large enough to afford both a fair tax cut and better prescription drug coverage for seniors. The surplus is largely thanks to sound budget decisions made in the early 1990s, which promoted economic growth and greatly expanded tax revenues. Those surpluses now make it not only possible, but imperative that we address the prescription drug cost crisis. We must remember that Congress also made mistakes during the 1990s. The Balanced Budget Act of 1997 brought cuts in Medicare spending, cuts that I opposed and that will total over $600 billion. It is only fair, now that there is a surplus, to return those cuts in health care spending back into the health care system where there is need. And I don't have to tell colleagues about the need. We all know it from our own families and our constituents.

When Medicare was first enacted in 1965 the program ''mimicked'' typical private insurance which often did not include outpatient prescription drugs. Times have changed, but in that regard Medicare has not. Virtually all employment based insurance now includes outpatient prescription drug coverage. Fully 99 percent of state and local government employees have this coverage. The federal employees program requires all plans to cover out patient prescription drugs, and Medicaid in every state does the same. Its time to bring Medicare up to date with a prescription drug plan available to all beneficiaries.

You don't have to tell people that prescription drugs are the largest out-of-pocket health care cost for seniors. They know. Over 85 percent of Medicare beneficiaries take at least one prescription medicine, and the average senior citizen fills eighteen prescriptions per year. Nationally, more than half of the cost of these drugs comes directly out of seniors' pockets. In Minnesota the number is even higher. Seniors who cannot afford drug coverage often do not take the drugs their doctors prescribe. One of every eight senior citizens at some time is forced to choose between buying food and buying medicine. That's not right.

Charles Van Guilder, a Minnesota senior, was faced with the devastating option of having to divorce his wife in order to protect their assets which might be stripped away by high-rising Medicare HMO costs. Struggling with Parkinson's Disease, she was faced with an $850 monthly charge for prescription drugs and home health premiums.

Rose Grigsby was faced with a choice of living in Arizona where because of disparities in Medicare + Choice reimbursements she payed $17.50 a month for her healthcare including prescription drugs and even a health club membership and moving back home to Minnesota where she would have to pay $270 a month for 80 percent drug coverage. Despite wanting to be with family, she couldn't afford to move. Where's the fairness in that? It is time we add prescription drug coverage to Medicare so it is available on an equal basis to every senior in every state.

The drug industry America's most profitable has never wanted a prescription drug benefit included in Medicare.

The industry is interested in protecting its very large profits. The most recent annual Fortune 500 report on American business showed once again as it has in each of the last 19 years that the pharmaceutical industry ranks first in profits. In the words of the editors of Fortune Magazine, ''Whether you gauge profitability by median return on revenues, assets or equity, pharmaceuticals had a Viagra kind of year.''

Where the average Fortune 500 industry in the United States returned 5 percent profits as a percentage of revenue, the pharmaceutical industry returned 18.6 percent. Where the average Fortune 500 industry returned 3.8 percent profits as a percentage of their assets, the pharmaceutical industry returned 16.5 percent. Where the average Fortune 500 industry returned 15 percent profits as a percentage of shareholders equity, the pharmaceutical industry returned 36 percent.

The richest pharmaceutical company, Merck, pulled in nearly $6 billion in profits, more than the entire Fortune 500 airline industry and registered twice the profits of the engineering construction industry. The 12 major companies of the pharmaceutical industry made $10 Billion more in total profits than the 24 companies of the motor vehicle and parts industry, including Ford, GM and others.

Those record profits are no surprise to America's senior citizens. Medicare beneficiaries without prescription drug coverage are being gouged every day of the week by a pharmaceutical industry that charges higher prices in the United States than in any other country of the world. So, America's seniors know where those record profits come from—they come from their own pocketbooks.

Year after year, the pharmaceutical industry rakes in record profits, much at the expense of America's most vulnerable citizens: the elderly, frail and ill. The high price of drugs forces seniors to chose between food and life preserving medications. Last year, when a Medicare prescription drug benefit available to all Senior Citizens seemed within reach, the pharmaceutical industry dipped into its coffers and forked over millions of dollars to fund a stealth campaign to defeat any such proposal.

Nowhere in its campaign against a Medicare prescription drug benefit did the pharmaceutical industry tell people that it was the prescription-drug companies that were paying for the campaign. The industry's front organization is called Citizens for Better Medicare. That is like Foxes for Better Chickens. A more accurate description would be Pharmaceutical Companies for Higher Profits. But drug companies would rather hide behind a false shield, count their profits and count the ways they can continue to extract high profits from the American public, especially from the elderly.

Indeed, according to a report from the Boston University School of Public Health, the pharmaceutical industry has encouraged the spread of seven interlocking myths that have ''permeated, paralyzed and poisoned'' public discourse of prescription drug policy. Let me just share 2 of those myths:

Myth #1: High prices and profits are bestowed on the drug industry by a legitimate and bountiful free market. In reality, little of a free market is present in the world of patented prescription drugs. Today's prices and profits are therefore not justified by a legitimate free market.

Myth #2: If government interferes with today's high price and profits, ''The lights go out in the labs, and there is no R&D,'' according to PhRMA, the drug industry's lobbying arm. As the Boston University researchers noted, that is like saying ''give us all of your money or we'll let you die.'' The researchers call that PhRMA's Fog of Fear. But the reality is the drug makers' profit-maximization is not to increase research. The facts are: Analysis of 1999 data shows that the six major drug makers spent 11 percent of their revenue on research and development, while 16 percent went to profits and 31 percent went to marketing and administration. These data closely parallel those collected in earlier years. Looking at the main task of drug company employees, as of June 1998: Fully 35 percent of drug makers' employees were engaged in marketing, with an additional 13 percent in administration. Producing and developing drugs each occupied only about one-quarter of employees. Looking at changes in employment of PhRMA members, from 1995 to 1999: The number of production workers fell, research workers rose slightly, while marketing employment rose by one-third.

The fact is there is plenty of room for the pharmaceutical industry to make a good profit without gouging the American consumer.

The fact also is that with each passing year, the need for Medicare prescription drug coverage has become more acute. The reasons are well known.

First, the cost of prescription drugs has skyrocketed in recent years. Direct to consumer advertising has increased demand, and drug companies have responded by raising prices and putting life saving drugs even further out of reach of the average senior citizen. Last year alone drug prices increased an estimated 17 percent. And there is no relief in sight. This year drug costs will increase another 18 percent.

Second, these increases hit seniors disproportionately: A 1998 study by the minority staff of the House Government Reform Committee found that older Americans without prescription drug insurance pay on average twice as much as the discounted prices drug companies offer large scale purchasers like HMOs and government agencies. The PRIME Institute, headed by Steve Schondelmeyer, at the University of Minnesota found what Minnesota seniors already know, that pharmaceutical prices overseas are far less then we pay in the United States. Statistics say that for every dollar we spend in the United States, Canadians spend on average just 64 cents; Italians spend just 51 cents; the English 65 cents and Swedes 68 cents. They say statistics often lie. Well, from what I have seen and heard, the drugs seniors need most are even more expensive in the United States than those statistics tell us. Even more astounding than the average figures are some specific comparisons: Synthroid for thyroid disease costs seniors 14 times the discounted price to favored customers; and Micronase for diabetes costs over 3½ times as much. So not only are seniors forced the pay out of pocket for these drugs, but the price they are charged is a national disgrace.

Furthermore, prescription drug spending accounts for 19 percent of the out of pocket costs for senior citizens and is the largest spending category after premium payments. Beneficiaries were projected to spend an average of $480 out-of-pocket on prescription drugs in 2000. Average out-of-pocket prescription drug spending is even higher for beneficiaries in poor health, $685, those without drug coverage, $715, and those who are severely limited in their activities of daily living, $725.

The high cost of drugs puts Americans in all income groups at risk. Of those seniors with incomes below 250 percent of poverty about 38 percent, 7.6 million, lack Rx drug coverage. Of those with higher incomes 28 percent, 5.4 million, have no drug coverage.

The increase in drugs cost and utilization is far outpacing the overall increase in the cost of living. A national study by Brandeis University and PCS Health Systems published in May 2000 found that prescription drug expenditure trends were even higher than previously estimated. They found that: Prescription drug costs grew at an annual rate of 24.8 percent per year from 1996 to 1999. Prescriptions per enrollee grew 14 percent per year. And not surprisingly, the number of prescriptions per person is rising fastest in the 65+ age group, from an average of 16 prescriptions in 1996 to an average of 23 by 1999.

Rural Americans are hardest hit of all. In June 2000 the National Economic Council published a report on prescription drug coverage for rural Medicare beneficiaries. Among its findings: Rural beneficiaries are over 60 percent more likely to fail to get needed prescription drugs due to cost. A greater proportion of rural elderly spend a greater percent of their income on prescription drugs. Rural beneficiaries use nearly 10 percent more prescriptions. Rural beneficiaries pay over 25 percent more out-of-pocket for prescription drugs than urban beneficiaries but they are 50 percent less likely to have any prescription drug coverage.

For Minnesotans, the lack of a Medicare prescription drug benefit hits especially hard because there are few alternatives. Only 19 percent of Minnesota firms offer retiree health insurance and the number has been dropping. Medicare's HMO reimbursement in Minnesota is so low that no basic Medicare Managed Care Plans can include Rx Drug coverage. Even with the increased Medicare + Choice capitation payment floor we voted in last year, it is not enough for these plans to offer prescription drug coverage. When a comprehensive benefit without a cap is available, the costs become prohibitive—up to $130 per month, just for the pharmacy benefit. The cost of prescription drug coverage under the average Medigap policy in Minnesota is $90 per month, and that is only for limited benefits. Because of this, in Minnesota, 65 percent of seniors have no prescription drug coverage. That's twice the national average. But the fact is over half of the Seniors in the United States have either no prescription drug coverage or totally inadequate coverage.

Both the high cost of drugs and lack of coverage have severe consequences. People discontinue their medications against medical advice, thereby placing themselves at risk for problems like heart attacks, cancer recurrence, depression and complications of diabetes. People lower the dose they take to make their prescriptions last longer. When I was in Duluth, Minnesota, meeting with seniors to discuss this very issue, one of my constituents told me about a neighbor who cut his pills in quarters because he couldn't afford to refill the prescription and wound up with an unnecessary hospitalization. People take their medicines as prescribed but then skimp on food and other necessities. Ray Erlandson, a retired steel worker from West Duluth was at that meeting in Duluth. Ray was spending about $300 a month for prescription drugs for he and his wife. He had nearly run out of savings. What does Ray say? ''People have to choose between food and buying their drugs. That shouldn't happen in this country. It's a dirty rotten shame. I'd like to ask the VIPs of the drug companies, Do you go to church? Do you know what you are doing to the elderly people?''

How can the richest country on earth force its senior citizens to choose between the medicines they need to survive and the foods they need to stay healthy? We shouldn't allow it. The answer is to provide a prescription drug benefit for all seniors that includes a pricing policy that keeps costs affordable.

In the 1960s when barely half the nation's senior citizens could afford health insurance, and far more were at risk for the loss of their life savings, we as a country responded and created Medicare.

Today, at the beginning of a new century, when only half the nation's seniors—at best—have close to adequate prescription drug coverage, we are again called upon as a nation to respond. The beauty of it all is that we have a surplus that allows us to respond with a prescription drug program that we can all be proud of. The tragedy of it all is that we are not doing it. We have an administration that is more concerned with giving huge tax cuts to the wealthiest 1 percent of Americans than it is with providing the life sustaining medications our seniors need. We have a pharmaceutical industry that is more concerned with maximizing profits and making campaign contributions than it is with maximizing access to life saving medications and making prescription drugs affordable.

The administration's prescription drug proposal is a clear demonstration of just where their priorities are. Republicans want to give $550 billion in tax cuts just to the wealthiest 1 percent of American families, leaving a pittance for Medicare prescription drugs. And the effect of those priorities will be seen in their as yet undisclosed plan: high premiums for beneficiaries; high deductibles, up to $2000; high copay; or a benefit available to only a fraction of the seniors who need it. In short, a benefit that isn't worth much. Millions of seniors will be left still holding the bag. You can't provide the kind of Medicare Rx Drug benefit that everyone on Medicare deserves with a tin-cup budget.

Any meaningful prescription drug benefit passed by this Congress should reflect key principles: universality; low cost to beneficiaries; and serious efforts to reduce the price of prescription drugs. To remedy the high cost of prescription drugs and to provide comprehensive coverage, I am proud to introduce the Medicare Extension of Drugs to Seniors, MEDS, Act of 2001.

Specifically, under this proposal, seniors and the disabled would have a 20-percent co-pay on all prescription drugs and a small, $24 monthly premium. Every person would receive the same voluntary benefit, regardless of income or geographical location. Under the MEDS plan, no beneficiary would ever have to spend more than $2,000 out-of-pocket on their medications. Low-income beneficiaries would have no out-of-pocket expense. By contrast, other plans that have been proposed would have seniors paying up to $6,000 a year. Still, they would not necessarily cover everyone currently eligible for Medicare

How can the MEDS plan provide such a strong benefit without busting the budget? By including provisions which seriously address the outrageously high prices that Americans are forced to pay for prescription drugs.

First, the MEDS plan includes strong, loophole-free language to allow American pharmacists, wholesalers and distributors to purchase FDA-approved prescription drugs at the lower prices charged abroad. Last year, a version of this legislation passed both Houses of Congress with solid bipartisan majorities. Unfortunately, at the last minute, the pharmaceutical industry was successful in adding loopholes to the bill that essentially make it unworkable. With strong reimportation language like that included in the MEDS plan, Americans would save 30–50 percent on the price of prescription drugs without any government subsidy.

Second, the MEDS plan includes a provision, originally proposed by Representative TOM ALLEN, that would permit Medicare beneficiaries to purchase their prescription drugs at the same price other government agencies such as the VA does. MEDS also creates a so-called ''global budget'' which would allow Medicare to negotiate on behalf of all Medicare beneficiaries and work to restrain costs in the long term.

Finally, the MEDS plan would ensure that when taxpayers foot the bill for research and development of a prescription drug, the pharmaceutical industry must offer that drug at a fair and reasonable price. Today, the federal government spends billions of dollars a year on research and development of medicines. Most often, this R&D is then given over to the pharmaceutical industry, which charges Americans any price they want for the final product. If we change this absurd system, we would ensure that new medicines would be affordable in the years ahead.

You can expect the pharmaceutical industry to protest loudly. And you can expect the industry to increase its campaign contributions, which totaled $19 million last year alone, its lobbying spending, which reached $91 million in 1999, and its advertising budget.

It is interesting. One pharmaceutical company executive recently said that no senior citizen should be forced to choose between his or her prescription and other vital needs. But the high prices his company charges and the high-priced lobbyists who do its bidding on Capitol Hill are forcing that very choice on many senior citizens. While paying lip service to seniors, according to a published news story, that same executive was earning over $6 million in salary, plus stock options worth more than $10 million.

The drug companies will say that reductions in price will dry up research. I believe that is nonsense. Drug companies put billions more dollars into profits, marketing and administration than they do into research, based on information in their own annual reports. Just how hard would this most profitable of American industries be hit if we enacted a universal Medicare prescription drug benefit that required the drug companies to offer seniors the best price they now offer other Federal government programs? According to Merrill Lynch, only by about 3 percent.

In a June 23, 1999 report entitled A Medicare Drug Benefit: May Not Be So Bad, Merrill Lynch debunked the notion that a Medicare prescription drug benefit would seriously damage the

pharmaceutical industry's profitability. Merrill Lynch's analysis concludes that the toughest proposal on the table in Washington, the Prescription Drug Fairness for Seniors Act, (The Allen Bill), the provisions of which are included in this bill, and which provides a 40 percent discount on drug costs for all 39 million Medicare beneficiaries, would cut just 3.3 percent from total pharmaceutical industry revenues because volume increases would offset much of the lost revenue due to the lower prices. According to Merrill Lynch: Volume is more important than price in driving pharmaceutical company sales growth. Between 1994 and 1998, the impact of volume on sales growth outpaced price by better than a 4-to-1 ratio. Medicare beneficiaries who either lack or have inadequate drug coverage underutilize prescription drugs because they cannot afford them. With a 40-percent price discount, the one-third of beneficiaries who lack any drug coverage would increase their consumption by 45 percent, and the two-thirds with some coverage would see a 10-percent increase in drug purchases. This increased utilization reduces the lost revenue that would otherwise result from a 40-percent price discount for Medicare beneficiaries by almost one-half. Without adjusting for volume increases, a 40-percent price discount for Medicare beneficiaries would reduce total pharmaceutical industry revenues by 5.9 percent. But after adjusting for increased utilization, the net drop in sales is just 3.3 percent. And that is from just a reduction in price, not an increase in coverage. If you factor in the coverage provided by the MEDS Act which all Seniors will have, drug company revenues will increase.

It is time to get our priorities straight. Millions of hard-working Americans go to work every day and pay their taxes so that when they hit 65, they can retire in a country they can be proud of, a country that offers basic security for all an even better life for their children. Each day they read in the paper about scientific breakthroughs: the genome project and new advances in the treatment of cancer, heart disease, and diabetes, all being carried out at the National Institutes of Health, one of our nation's jewels. They turn on the television and see drug company advertisements that extol new and expensive medications. But what good is that medical research and those expensive drugs if they are unaffordable and out of reach of millions of Americans. That is the situation we have today. And it is unacceptable!

The time has come to support a comprehensive, affordable, 20-percent copay, $2000-cap, prescription drug benefit for all seniors, a plan that does not favor the health insurance or pharmaceutical industries over our own parents and grandparents. The MEDS Act provides such a benefit, and I ask my colleagues to join me in supporting this legislation.

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

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

S. 925

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Extension of Drugs to Seniors (MEDS) Act of 2001''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Prescription medicine coverage was not a standard part of health insurance when the medicare program under title XVIII of the Social Security Act was enacted in 1965. Since 1965, however, medicine coverage has become a key component of most private and public health insurance coverage, except for the medicare program.

(2) At least ⅔ of medicare beneficiaries have unreliable, inadequate, or no medicine coverage at all.

(3) Seniors who do not have medicine coverage typically pay, at a minimum, 15 percent more than people with coverage.

(4) Medicare beneficiaries at all income levels lack prescription medicine coverage, with more than ½ of such beneficiaries having incomes greater than 150 percent of the poverty line.

(5) The number of private firms offering retiree health coverage is declining.

(6) Medigap premiums for medicines are too expensive for most beneficiaries and are highest for older senior citizens, who need prescription medicine coverage the most and typically have the lowest incomes.

(7) All medicare beneficiaries should have access to a voluntary, reliable, affordable, and defined outpatient medicine benefit as part of the medicare program that assists with the high cost of prescription medicines and protects them against excessive out-of-pocket costs.

SEC. 3. PRESCRIPTION MEDICINE BENEFIT PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

''PART D—PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

''ESTABLISHMENT OF PRESCRIPTION MEDICINE BENEFIT PROGRAM FOR THE AGED AND DISABLED

''SEC. 1860. There is established a voluntary insurance program to provide prescription medicine benefits, including pharmacy services, in accordance with the provisions of this part for individuals who are aged or disabled or have end-stage renal disease and who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.

''SCOPE OF BENEFITS

''SEC. 1860A. (a) IN GENERAL.—The benefits provided to an individual enrolled in the insurance program under this part shall consist of—

''(1) payments made, in accordance with the provisions of this part, for covered prescription medicines (as specified in subsection (b)) dispensed by any pharmacy participating in the program under this part (and, in circumstances designated by the Secretary, by a nonparticipating pharmacy), including any specifically named medicine prescribed for the individual by a qualified health care professional regardless of whether the medicine is included in any formulary established under this part if such medicine is certified as medically necessary by such health care professional (except that the Secretary shall encourage to the maximum extent possible the substitution and use of lower-cost generics), up to the benefit limits specified in section 1860B; and

''(2) charging by pharmacies of the negotiated price—

''(A) for all covered prescription medicines, without regard to such benefit limit; and

''(B) established with respect to any drugs or classes of drugs described in subparagraphs (A), (B), (D), (E), or (F) of section 1927(d)(2) that are available to individuals receiving benefits under this title.

''(b) COVERED PRESCRIPTION MEDICINES.—

''(1) IN GENERAL.—Covered prescription medicines, for purposes of this part, include all prescription medicines (as defined in section 1860K(1)), including smoking cessation agents, except as otherwise provided in this subsection.

''(2) EXCLUSIONS FROM COVERAGE.—Covered prescription medicines shall not include drugs or classes of drugs described in subparagraphs (A) through (D) and (F) through (H) of section 1927(d)(2) unless—

''(A) specifically provided otherwise by the Secretary with respect to a drug in any of such classes; or

''(B) a drug in any of such classes is certified to be medically necessary by a health care professional.

''(3) EXCLUSION OF PRESCRIPTION MEDICINES TO THE EXTENT COVERED UNDER PART A OR B.—

A medicine prescribed for an individual that would otherwise be a covered prescription medicine under this part shall not be so considered to the extent that payment for such medicine is available under part A or B, including all injectable drugs and biologicals for which payment was made or should have been made by a carrier under section 1861(s)(2) (A) or (B) as of the date of enactment of the Medicare Extension of Drugs to Seniors (MEDS) Act of 2001. Medicines otherwise covered under part A or B shall be covered under this part to the extent that benefits under part A or B are exhausted.

''(4) STUDY ON INCLUSION OF HOME INFUSION THERAPY SERVICES.—Not later than 1 year after the date of enactment of the Medicare Extension of Drugs to Seniors (MEDS) Act of 2001, the Secretary shall submit to Congress a legislative proposal for the delivery of home infusion therapy services under this title and for a system of payment for such a benefit that coordinates items and services furnished under part B and under this part.

''PAYMENT OF BENEFITS; BENEFIT LIMITS

''SEC. 1860B. (a) PAYMENT OF BENEFITS.—

''(1) IN GENERAL.—There shall be paid from the Prescription Medicine Insurance Account within the Supplementary Medical Insurance Trust Fund, in the case of each individual who is enrolled in the insurance program under this part and who purchases covered prescription medicines in a calendar year—

''(A) with respect to costs incurred for covered prescription medicine furnished during a year, before the individual has incurred out-of-pocket expenses under this subsection equal to the catastrophic out-of-pocket limit specified in subsection (b), an amount equal to the applicable percentage (specified in paragraph (2)) of the negotiated price for each such covered prescription medicine or such higher percentage as is proposed under section 1860G(b)(7); and

''(B) with respect to costs incurred for covered prescription medicine furnished during a year, after the individual has incurred out-of-pocket expenses under this subsection equal to the catastrophic out-of-pocket limit specified in subsection (b), an amount equal to 100 percent of the negotiated price for each such covered prescription medicine.

''(2) APPLICABLE PERCENTAGE.—The applicable percentage specified in this paragraph is 80 percent or such higher percentage as is proposed under section 1860G(b)(7), if the Secretary finds that such higher percentage will not increase aggregate costs to the Prescription Medicine Insurance Account.

''(b) CATASTROPHIC LIMIT ON OUT-OF-POCKET EXPENSES.—

''(1) IN GENERAL.—The catastrophic limit on out-of-pocket expenses specified in this subsection for—

''(A) for each of calendar years 2003 and 2004, $2,000; and

''(B) subject to paragraph (2), for calendar year 2005 and each subsequent calendar year is equal to the limit for the preceding year under this paragraph adjusted by the sustainable growth rate percentage (determined under section 1861I(b)) for the year involved.

''(2) ROUNDING.—Any amount determined under paragraph (1)(E) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''ELIGIBILITY AND ENROLLMENT

''SEC. 1860C. (a) ELIGIBILITY.—Every individual who, in or after 2003, is entitled to hospital insurance benefits under part A or enrolled in the medical insurance program under part B is eligible to enroll, in accordance with the provisions of this section, in the insurance program under this part, during an enrollment period prescribed in or under this section, in such manner and form as may be prescribed by regulations.

''(b) ENROLLMENT.—

''(1) IN GENERAL.—Each individual who satisfies subsection (a) shall be enrolled (or eligible to enroll) in the program under this part in accordance with the provisions of section 1837, as if that section applied to this part, except as otherwise explicitly provided in this part.

''(2) SINGLE ENROLLMENT PERIOD.—Except as provided in section 1837(i) (as such section applies to this part), 1860E, or 1860H(e), or as otherwise explicitly provided, no individual shall be entitled to enroll in the program under this part at any time after the initial enrollment period without penalty, and in the case of all other late enrollments, the Secretary shall develop a late enrollment penalty for the individual that fully recovers the additional actuarial risk involved providing coverage for the individual.

''(3) SPECIAL ENROLLMENT PERIOD FOR 2003.—

''(A) IN GENERAL.—An individual who first satisfies subsection (a) in 2003 may, at any time on or before December 31, 2003—

''(i) enroll in the program under this part; and

''(ii) enroll or reenroll in such program after having previously declined or terminated enrollment in such program.

''(B) EFFECTIVE DATE OF COVERAGE.—An individual who enrolls under the program under this part pursuant to subparagraph (A) shall be entitled to benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(c) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as otherwise provided in this part, an individual's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—In addition to the causes of termination specified in section 1838, an individual's coverage under this part shall be terminated when the individual retains coverage under neither the program under part A nor the program under part B, effective on the effective date of termination of coverage under part A or (if later) under part B.

''PREMIUMS

''SEC. 1860D. (a) ANNUAL ESTABLISHMENT OF MONTHLY PREMIUM RATES.—

''(1) IN GENERAL.—The Secretary shall, during September of 2002 and of each succeeding year, determine and promulgate a monthly premium rate for the succeeding year in accordance with the provisions of this subsection.

''(2) INITIAL PREMIUMS.—For months in 2003, the monthly premium rate under this subsection shall be—

''(A) $24, in the case of premiums paid by an individual enrolled in the program under this part; and

''(B) $32, in the case of premiums paid for such an individual by a former employer (as defined in section 1860H(f)(2)).

''(3) SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For months in a year after 2003, the monthly premium under this subsection shall be (subject to subparagraph (B)) the monthly premium (computed under this subsection without regard to subparagraph (B)) for the previous year increased by the annual percentage increase in average per capita aggregate expenditures for covered outpatient medicines in the United States for medicare beneficiaries, as estimated and published by the Secretary in September before the year and for the year involved.

''(B) ROUNDING.—The monthly premium determined under subparagraph (A) shall be rounded to the nearest multiple of 10 cents if it is not a multiple of 10 cents.

''(C) PUBLICATION OF ASSUMPTIONS.—The Secretary shall publish, together with the promulgation of the monthly premium rates under this paragraph, a statement setting forth the actuarial assumptions and bases employed in arriving at the monthly premium under subparagraph (A).

''(b) PAYMENT OF PREMIUMS.—

''(1) PAYMENTS BY DEDUCTION FROM SOCIAL SECURITY, RAILROAD RETIREMENT BENEFITS, OR BENEFITS ADMINISTERED BY OPM.—

''(A) DEDUCTION FROM BENEFITS.—In the case of an individual who is entitled to or receiving benefits as described in subsection (a), (b), or (d) of section 1840, premiums payable under this part shall be collected by deduction from such benefits at the same time and in the same manner as premiums payable under part B are collected pursuant to section 1840.

''(B) TRANSFERS TO PRESCRIPTION MEDICINE INSURANCE ACCOUNT.—The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer premiums collected pursuant to subparagraph (A) to the Prescription Medicine Insurance Account from the appropriate funds and accounts described in subsections (a)(2), (b)(2), and (d)(2) of section 1840, on the basis of the certifications described in such subsections. The amounts of such transfers shall be appropriately adjusted to the extent that prior transfers were too great or too small.

''(2) DIRECT PAYMENTS TO SECRETARY.—

''(A) ADDITIONAL PAYMENT BY ENROLLEE.—An individual to whom paragraph (1) applies (other than an individual receiving benefits as described in section 1840(d)) and who estimates that the amount that will be available for deduction under such paragraph for any premium payment period will be less than the amount of the monthly premiums for such period may (under regulations) pay to the Secretary the estimated balance, or such greater portion of the monthly premium as the individual chooses.

''(B) PAYMENTS BY OTHER ENROLLEES.—An individual enrolled in the insurance program under this part with respect to whom none of the preceding provisions of this subsection applies (or to whom section 1840(c) applies) shall pay premiums to the Secretary at such times and in such manner as the Secretary shall by regulations prescribe.

''(C) DEPOSIT OF PREMIUMS.—Amounts paid to the Secretary under this paragraph shall be deposited in the Treasury to the credit of the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund.

''(c) CERTAIN LOW-INCOME INDIVIDUALS.—For rules concerning premiums for certain low-income individuals, see section 1860E.

''SPECIAL ELIGIBILITY, ENROLLMENT, AND COPAYMENT RULES FOR LOW-INCOME INDIVIDUALS

''SEC. 1860E. (a) STATE AGREEMENTS FOR COVERAGE.—

''(1) IN GENERAL.—The Secretary shall, at the request of a State, enter into an agreement with the State under which all individuals described in paragraph (2) are enrolled in the program under this part, without regard to whether any such individual has previously declined the opportunity to enroll in such program.

''(2) ELIGIBILITY GROUPS.—The individuals described in this paragraph, for purposes of paragraph (1), are individuals who satisfy section 1860C(a) and who are—

''(A)(i) eligible individuals within the meaning of section 1843; and

''(ii) in a coverage group or groups permitted under section 1843 (as selected by the State and specified in the agreement); or

''(B) qualified medicare medicine beneficiaries (as defined in subsection (e)(1)).

''(3) COVERAGE PERIOD.—The period of coverage under this part of an individual enrolled under an agreement under this subsection shall be as follows:

''(A) INDIVIDUALS ELIGIBLE (AT STATE OPTION) FOR PART B BUY-IN.—In the case of an individual described in subsection (a)(2)(A), the coverage period shall be the same period that applies (or would apply) pursuant to section 1843(d).

''(B) QUALIFIED MEDICARE MEDICINE BENEFICIARIES.—In the case of an individual described in subsection (a)(2)(B)—

''(i) the coverage period shall begin on the latest of—

''(I) January 1, 2003;

''(II) the first day of the third month following the month in which the State agreement is entered into; or

''(III) the first day of the first month following the month in which the individual satisfies section 1860C(a); and

''(ii) the coverage period shall end on the last day of the month in which the individual is determined by the State to have become ineligible for medicare medicine cost-sharing.

''(4) ALTERNATIVE ENROLLMENT METHODS.—In the process of enrolling low-income individuals under this part, the Secretary shall use the system provided under section 154 of the Social Security Act Amendments of 1994 for newly eligible medicare beneficiaries and shall apply a similar system for other medicare beneficiaries. Such system shall use existing Federal Government databases to identify eligibility. Such system shall not require that beneficiaries apply for, or enroll through, State medicaid systems in order to obtain low-income assistance described in this section.

''(b) SPECIAL PART D ENROLLMENT OPPORTUNITY FOR INDIVIDUALS LOSING MEDICAID ELIGIBILITY.—In the case of an individual who—

''(1) satisfies section 1860C(a); and

''(2) loses eligibility for benefits under the State plan under title XIX after having been enrolled under such plan or having been determined eligible for such benefits;

the Secretary shall provide an opportunity for enrollment under the program under this part during the period that begins on the date that such individual loses such eligibility and ends on the date specified by the Secretary.

''(c) STATE OPTION TO BUY-IN DUALLY ELIGIBLE INDIVIDUALS.—

''(1) COVERAGE OF PREMIUMS AS MEDICAL ASSISTANCE.—For purposes of applying the second sentence of section 1905(a), any reference to premiums under part B shall be considered to include a reference to premiums under this part.

''(2) STATE COMMITMENT TO CONTINUE PARTICIPATION IN PART D AFTER BENEFIT LIMIT REACHED.—As a condition of additional funding to a State under subsection (d), the State, in its State plan under title XIX, shall provide that in the case of any individual whose eligibility for medical assistance under title XIX is not limited to medicare cost-sharing and for whom the State elects to pay premiums under this part pursuant to this section, the State will purchase all prescription medicines for such individual in accordance with the provisions of this part without regard to whether the benefit limit for such individual under section 1860B(b) has been reached.

''(3) MEDICARE COST-SHARING REQUIRED FOR QUALIFIED MEDICARE BENEFICIARIES.—In applying title XIX, the term 'medicare cost-sharing' (as defined in section 1905(p)(3)) is deemed to include—

''(A) premiums under section 1860D; and

''(B) the difference between the amount that is paid under section 1860B and the amount that would be paid under such section if any reference to '80 percent' in subsection (a)(2) of such section were deemed a reference to '100 percent' (or, if the Secretary approves a higher percentage under such section, if such percentage were deemed to be 100 percent).

''(d) PAYMENT TO STATES FOR COVERAGE OF CERTAIN MEDICARE COST-SHARING.—

''(1) IN GENERAL.—The Secretary shall provide for payment under this subsection to each State that provides for—

''(A) medicare cost-sharing described in section 1905(p)(3)(A)(ii) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) and is at least 120 percent, but less than 135 percent, of the official poverty line (referred to in such section) for a family of the size involved and who are not otherwise eligible for medical assistance under the State plan; and

''(B) medicare medicine cost-sharing (as defined in subsection (e)(2)) for qualified medicare medicine beneficiaries described in subsection (e)(1).

''(2) AMOUNT OF PAYMENT.—The amount of payment under paragraph (1) shall equal 100 percent of the cost-sharing described in such paragraph, except that, in the case of an individual whose eligibility for medical assistance under title XIX is not limited to medicare cost-sharing or medicare medicine cost-sharing, the amount of payment under paragraph (1)(B) shall be equal to the Federal medical assistance percentage described in section 1905(b)) of amounts as expended for such cost-sharing.

''(3) METHOD OF PAYMENT; RELATION TO OTHER PAYMENTS.—Amounts shall be paid to States under this subsection in a manner similar to that provided under section 1903(d). Payments under this subsection shall be made in lieu of any payments that otherwise may be made for medical assistance provided under section 1902(a)(10)(E)(iv).

''(4) TREATMENT OF TERRITORIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), this subsection shall not apply to States other than the 50 States and the District of Columbia.

''(B) PAYMENTS.—In the case of a State (other than the 50 States and the District of Columbia) that develops and implements a plan of assistance for pharmaceuticals provided to low-income medicare beneficiaries, the Secretary shall provide for payment to the State in an amount that is reasonable in relation to the payment levels provided to other States under paragraph (2).

''(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section:

''(1) QUALIFIED MEDICARE MEDICINE BENEFICIARY.—The term 'qualified medicare medicine beneficiary' means an individual—

''(A) who is entitled to hospital insurance benefits under part A (including an individual entitled to such benefits pursuant to an enrollment under section 1818, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A);

''(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in section 1905(p)(2)(D)) is above 100 percent but below 150 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

''(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

''(2) MEDICARE MEDICINE COST-SHARING.—The term 'medicare medicine cost-sharing' means the following costs incurred with respect to a qualified medicare medicine beneficiary, without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under a State plan under title XIX:

''(A) In the case of a qualified medicare medicine beneficiary whose income (as determined under paragraph (1)) is less than 135 percent of the official poverty line—

''(i) premiums under section 1860D; and

''(ii) the difference between the amount that is paid under section 1860B and the amount that would be paid under such section if any reference to '50 percent' therein were deemed a reference to '100 percent' (or, if the Secretary approves a higher percentage under such section, if such percentage were deemed to be 100 percent).

''(B) In the case of a qualified medicare medicine beneficiary whose income (as determined under paragraph (1)) is at least 135 percent but less than 150 percent of the official poverty line, a percentage of premiums under section 1860D, determined on a linear sliding scale ranging from 100 percent for individuals with incomes at 135 percent of such line to 0 percent for individuals with incomes at 150 percent of such line.

''(3) STATE.—The term 'State' has the meaning given such term under section 1101(a) for purposes of title XIX.

''(4) TREATMENT OF DRUGS PURCHASED.—The provisions of section 1927 shall not apply to prescription drugs purchased under this part pursuant to an agreement with the Secretary under this section (including any drugs so purchased after the limit under section 1860B(b) has been exceeded).

''PRESCRIPTION MEDICINE INSURANCE ACCOUNT

''SEC. 1860F. (a) ESTABLISHMENT.—There is created within the Federal Supplemental Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Medicine Insurance Account' (in this section referred to as the 'Account').

''(b) AMOUNTS IN ACCOUNT.—

''(1) IN GENERAL.—The Account shall consist of—

''(A) such amounts as may be deposited in, or appropriated to, such fund as provided in this part; and

''(B) such gifts and bequests as may be made as provided in section 201(i)(1).

''(2) SEPARATION OF FUNDS.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplemental Medical Insurance Trust Fund.

''(c) PAYMENTS FROM ACCOUNT.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g).

''ADMINISTRATION OF BENEFITS

''SEC. 1860G. (a) THROUGH HCFA.—The Secretary shall provide for administration of the benefits under this part through the Health Care Financing Administration in accordance with the provisions of this section. The Administrator of such Administration may enter into contracts with carriers to administer this part in the same manner as the Administrator enters into such contracts to administer part B. Any such contract shall

be separate from any contract under section 1842.

''(b) ADMINISTRATION FUNCTIONS.—In carrying out this part, the Administrator (or a carrier under a contract with the Administrator) shall (or in the case of the function described in paragraph (9), may) perform the following functions:

''(1) PARTICIPATION AGREEMENTS, PRICES, AND FEES.—

''(A) NEGOTIATED PRICES.—Establish, through negotiations with medicine manufacturers and wholesalers and pharmacies, a schedule of prices for covered prescription medicines.

''(B) AGREEMENTS WITH PHARMACIES.—Enter into participation agreements under subsection (c) with pharmacies, that include terms that—

''(i) secure the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access);

''(ii) permit the participation of any pharmacy in the service area that meets the participation requirements described in subsection (c); and

''(iii) allow for reasonable dispensing and consultation fees for pharmacies.

''(C) LISTS OF PRICES AND PARTICIPATING PHARMACIES.—Ensure that the negotiated prices established under subparagraph (A) and the list of pharmacies with agreements under subsection (c) are regularly updated and readily available to health care professionals authorized to prescribe medicines, participating pharmacies, and enrolled individuals.

''(2) TRACKING OF COVERED ENROLLED INDIVIDUALS.—Maintain accurate, updated records of all enrolled individuals (other than individuals enrolled in a plan under part C).

''(3) PAYMENT AND COORDINATION OF BENEFITS.—

''(A) PAYMENT.—

''(i) Administer claims for payment of benefits under this part and encourage, to the maximum extent possible, use of electronic means for the submissions of claims.

''(ii) Determine amounts of benefit payments to be made.

''(iii) Receive, disburse, and account for funds used in making such payments, including through the activities specified in the provisions of this paragraph.

''(B) COORDINATION.—Coordinate with other private benefit providers, pharmacies, and other relevant entities as necessary to ensure appropriate coordination of benefits with respect to enrolled individuals, including coordination of access to and payment for covered prescription medicines according to an individual's in-service area plan provisions, when such individual is traveling outside the home service area, and under such other circumstances as the Secretary may specify.

''(C) EXPLANATION OF BENEFITS.—Furnish to enrolled individuals an explanation of benefits in accordance with section 1806(a), and a notice of the balance of benefits remaining for the current year, whenever prescription medicine benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(4) RULES RELATING TO PROVISION OF BENEFITS.—

''(A) IN GENERAL.—In providing benefits under this part, the Secretary (directly or through contracts) shall employ mechanisms to provide benefits economically, including the use of—

''(i) formularies (consistent with subparagraph (B));

''(ii) automatic generic medicine substitution (unless the physician specifies otherwise, in which case a 30-day prescription may be dispensed pending a consultation with the physician on whether a generic substitute can be dispensed in the future);

''(iii) tiered copayments (which may include copayments at a rate lower than 20 percent) to encourage the use of the lowest cost, on-formulary product in cases where there is no restrictive prescription (described in subparagraph (D)(i)); and

''(iv) therapeutic interchange.

''(B) REQUIREMENTS WITH RESPECT TO FORMULARIES.—If a formulary is used to contain costs under this part—

''(i) use an advisory committee (or a therapeutics committee) comprised of licensed practicing physicians, pharmacists, and other health care practitioners to develop and manage the formulary;

''(ii) include in the formulary at least 1 medicine from each therapeutic class and, if available, a generic equivalent thereof; and

''(iii) disclose to current and prospective enrollees and to participating providers and pharmacies, the nature of the formulary restrictions, including information regarding the medicines included in the formulary and any difference in cost-sharing amounts.

''(C) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary (directly or through contracts) from using incentives (including a lower beneficiary coinsurance) to encourage enrollees to select generic or other cost-effective medicines, so long as—

''(i) such incentives are designed not to result in any increase in the aggregate expenditures under the Federal Medicare Prescription Medicine Trust Fund;

''(ii) the average coinsurance charged to all beneficiaries by the Secretary (directly or through contractors) shall seek to approximate (but in no case exceed) 20 percent for on-formulary medicines;

''(iii) a beneficiary's coinsurance shall be no greater than 20 percent if the prescription is a restrictive prescription; and

''(iv) the reimbursement for a prescribed nonformulary medicine without a restrictive prescription in no case shall be more than the lowest reimbursement for a formulary medicine in the therapeutic class of the prescribed medicine.

''(D) RESTRICTIVE PRESCRIPTION.—For purposes of this section:

''(i) WRITTEN PRESCRIPTIONS.—In the case of a written prescription for a medicine, it is a restrictive prescription only if the prescription indicates, in the writing of the physician or other qualified person prescribing the medicine and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular medicine product must be dispensed based upon a belief by the physician or person prescribing the medicine that the particular medicine will provide even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual.

''(ii) TELEPHONE PRESCRIPTIONS.—In the case of a prescription issued by telephone for a medicine, it is a restrictive prescription only if the prescription cannot be longer than 30 days and the physician or other qualified person prescribing the medicine (through use of such an appropriate phrase) states that a particular medicine product must be dispensed, and the physician or other qualified person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation from the physician or other qualified person prescribing the medicine and which indicates with such appropriate phrase that the particular medicine product was required to have been dispensed based upon a belief by the physician or person prescribing the medicine that the particular medicine will provide even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual. Such written confirmation is required to refill the prescription.

''(iii) REVIEW OF RESTRICTIVE PRESCRIPTIONS.—The advisory committee (established under subparagraph (B)(i)) may decide to review a restrictive prescription and, if so, it may approve or disapprove such restrictive prescription. It may not disapprove such restrictive prescription unless it finds that there is no clinical evidence or peer reviewed medical literature that supports a determination that the particular medicine provides even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual. If it disapproves, upon request of the prescribing physician or the enrollee, the committee must provide for a review by an independent contractor of such decision within 48 hours of the time of submission of the prescription, to determine whether the prescription is an eligible benefit under this part. The Secretary shall ensure that independent contractors so used are completely independent of the contractor or its advisory committee.

''(5) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE.—Have in place effective cost and utilization management, drug utilization review, quality assurance measures, and systems to reduce medical errors, including at least the following, together with such additional measures as the Administrator may specify:

''(A) DRUG UTILIZATION REVIEW.—A drug utilization review program conforming to the standards provided in section 1927(g)(2) (with such modifications as the Administrator finds appropriate).

''(B) FRAUD AND ABUSE CONTROL.—Activities to control fraud, abuse, and waste, including prevention of diversion of pharmaceuticals to the illegal market.

''(C) MEDICATION THERAPY MANAGEMENT.—

''(i) IN GENERAL.—A program of medicine therapy management and medication administration that is designed to assure that covered outpatient medicines are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(ii) ELEMENTS.—Such program may include—

''(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means; and

''(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means.

''(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(iv) CONSIDERATIONS IN PHARMACY FEES.—There shall be taken into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(6) EDUCATION AND INFORMATION ACTIVITIES.—Have in place mechanisms for disseminating educational and informational materials to enrolled individuals and health care providers designed to encourage effective and cost-effective use of prescription medicine benefits and to ensure that enrolled individuals understand their rights and obligations under the program.

''(7) BENEFICIARY PROTECTIONS.—

''(A) CONFIDENTIALITY OF HEALTH INFORMATION.—Have in effect systems to safeguard the confidentiality of health care information on enrolled individuals, which comply with section 1106 and with section 552a of title 5, United States Code, and meet such additional standards as the Administrator may prescribe.

''(B) GRIEVANCE AND APPEAL PROCEDURES.—Have in place such procedures as the Administrator may specify for hearing and resolving grievances and appeals, including expedited appeals, brought by enrolled individuals against the Administrator or a pharmacy concerning benefits under this part, which shall include procedures equivalent to those specified in subsections (f) and (g) of section 1852.

''(8) RECORDS, REPORTS, AND AUDITS.—

''(A) RECORDS AND AUDITS.—Maintain adequate records, and afford the Administrator access to such records (including for audit purposes).

''(B) REPORTS.—Make such reports and submissions of financial and utilization data as the Administrator may require taking into account standard commercial practices.

''(9) PROPOSAL FOR ALTERNATIVE COINSURANCE AMOUNT.—

''(A) SUBMISSION.—The Administrator may provide for increased Government cost-sharing for generic prescription medicines, prescription medicines on a formulary, or prescription medicines obtained through mail order pharmacies.

''(B) CONTENTS.—The proposal submitted under subparagraph (A) shall contain evidence that such increased cost-sharing would not result in an increase in aggregate costs to the Account, including an analysis of differences in projected drug utilization patterns by beneficiaries whose cost-sharing would be reduced under the proposal and those making the cost-sharing payments that would otherwise apply.

''(10) OTHER REQUIREMENTS.—Meet such other requirements as the Secretary may specify.

The Administrator shall negotiate a schedule of prices under paragraph (1)(A), except that nothing in this sentence shall prevent a carrier under a contract with the Administrator from negotiating a lower schedule of prices for covered prescription medicines.

''(c) PHARMACY PARTICIPATION AGREEMENTS.—

''(1) IN GENERAL.—A pharmacy that meets the requirements of this subsection shall be eligible to enter an agreement with the Administrator to furnish covered prescription medicines and pharmacists' services to enrolled individuals.

''(2) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and requirements:

''(A) LICENSING.—The pharmacy and pharmacists shall meet (and throughout the contract period will continue to meet) all applicable State and local licensing requirements.

''(B) LIMITATION ON CHARGES.—Pharmacies participating under this part shall not charge an enrolled individual more than the negotiated price for an individual medicine as established under subsection (b)(1), regardless of whether such individual has attained the benefit limit under section 1860B(b), and shall not charge an enrolled individual more than the individual's share of the negotiated price as determined under the provisions of this part.

''(C) PERFORMANCE STANDARDS.—The pharmacy and the pharmacist shall comply with performance standards relating to—

''(i) measures for quality assurance, reduction of medical errors, and participation in the drug utilization review program described in subsection (b)(3)(A);

''(ii) systems to ensure compliance with the confidentiality standards applicable under subsection (b)(5)(A); and

''(iii) other requirements as the Secretary may impose to ensure integrity, efficiency, and the quality of the program.

''(D) DISCLOSURE OF PRICE OF GENERIC MEDICINE.—A pharmacy participating under this part shall inform an enrollee of the difference in price between generic and nongeneric equivalents.

''(d) SPECIAL ATTENTION TO RURAL AND HARD-TO-SERVE AREAS.—

''(1) IN GENERAL.—The Secretary shall ensure that all beneficiaries have access to the full range of pharmaceuticals under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas (as the Secretary may define by regulation).

''(2) SPECIAL ATTENTION DEFINED.—For purposes of paragraph (1), the term 'special attention' may include bonus payments to retail pharmacists in rural areas and any other actions the Secretary determines are necessary to ensure full access to rural and hard-to-serve beneficiaries.

''(3) GAO REPORT.—Not later than 2 years after the implementation of this part the Comptroller General of the United States shall submit to Congress a report on the access of medicare beneficiaries to pharmaceuticals and pharmacists' services in rural and hard-to-serve areas under this part together with any recommendations of the Comptroller General regarding any additional steps the Secretary may need to take to ensure the access of medicare beneficiaries to pharmaceuticals and pharmacists' services in such areas under this part.

''(e) INCENTIVES FOR COST AND UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT.—The Secretary is authorized to include in a contract awarded under subsection (b) with a carrier such incentives for cost and utilization management and quality improvement as the Secretary may deem appropriate, including—

''(1) bonus and penalty incentives to encourage administrative efficiency;

''(2) incentives under which carriers share in any benefit savings achieved;

''(3) risk-sharing arrangements related to initiatives to encourage savings in benefit payments;

''(4) financial incentives under which savings derived from the substitution of generic medicines in lieu of nongeneric medicines are made available to carriers, pharmacies, and the Prescription Medicine Insurance Account; and

''(5) any other incentive that the Secretary deems appropriate and likely to be effective in managing costs or utilization.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE MEDICINE COVERAGE

''SEC. 1860H. (a) PROGRAM AUTHORITY.—The Secretary shall develop and implement a program under this section called the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription medicine benefits to retired individuals and to maintain such existing benefit programs, by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription medicine plan (as defined in subsection (f)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription medicine plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription medicine benefit under the plan falls below the actuarial value of the insurance benefit under this part.

''(2) OTHER REQUIREMENTS.—The sponsor shall provide such information, and comply with such requirements, including information requirements to ensure the integrity of the program, as the Secretary may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENT.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined as described in paragraph (2), for each retired individual (or spouse) who—

''(A) was covered under the sponsor's qualified retiree prescription medicine plan during such quarter; and

''(B) was eligible for but was not enrolled in the insurance program under this part.

''(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to ⅔ of the monthly premium amount payable from the Prescription Medicine Insurance Account for an enrolled individual, as set for the calendar year pursuant to section 1860D(a)(2).

''(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount equal to $2,000 for each false representation plus an amount not to exceed 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) PART D ENROLLMENT FOR CERTAIN INDIVIDUALS COVERED BY EMPLOYMENT-BASED RETIREE HEALTH COVERAGE PLANS.—

''(1) ELIGIBLE INDIVIDUALS.—An individual shall be given the opportunity to enroll in the program under this part during the period specified in paragraph (2) if—

''(A) the individual declined enrollment in the program under this part at the time the individual first satisfied section 1860C(a);

''(B) at that time, the individual was covered under a qualified retiree prescription medicine plan for which an incentive payment was paid under this section; and

''(C)(i) the sponsor subsequently ceased to offer such plan; or

''(ii) the value of prescription medicine coverage under such plan is reduced below the value of the coverage provided at the time the individual first became eligible to participate in the program under this part.

''(2) SPECIAL ENROLLMENT PERIOD.—An individual described in paragraph (1) shall be eligible to enroll in the program under this

part during the 6-month period beginning on the first day of the month in which—

''(A) the individual receives a notice that coverage under such plan has terminated (in the circumstance described in paragraph (1)(C)(i)) or notice that a claim has been denied because of such a termination; or

''(B) the individual received notice of the change in benefits (in the circumstance described in paragraph (1)(C)(ii)).

''(f) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given to such term by section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION MEDICINE PLAN.—The term 'qualified retiree prescription medicine plan' means health insurance coverage included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription medicines whose actuarial value to each retired beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription medicine benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' by section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

''PROMOTION OF PHARMACEUTICAL RESEARCH ON BREAK-THROUGH MEDICINES WHILE PROVIDING PROGRAM COST CONTAINMENT

''SEC. 1860I. (a) MONITORING EXPENDITURES.—The Secretary shall monitor expenditures under this part. On October 1, 2003, the Secretary shall estimate total expenditures under this part for 2003.

''(b) ESTABLISHMENT OF SUSTAINABLE GROWTH RATE.—

''(1) IN GENERAL.—The Secretary shall establish a sustainable growth rate prescription medicine target system for expenditures under this part for each year after 2003.

''(2) INITIAL COMPUTATION.—Such target shall equal the amount of total expenditures estimated for 2003 adjusted by the Secretary's estimate of a sustainable growth rate (in this section referred to as an 'SGR') percentage between 2003 and 2004. Such SGR shall be estimated based on the following:

''(A) Reasonable changes in the cost of production or price of covered pharmaceuticals, but in no event more than the rate of increase in the Consumer Price Index for all urban consumers for the period involved.

''(B) Population enrolled in this part, both in numbers and in average age and severity of chronic and acute illnesses.

''(C) Appropriate changes in utilization of pharmaceuticals, as determined by the Drug Review Board (established under subsection (c)(3)) and based on best estimates of utilization change if there were no direct-to-consumer advertising or promotions to providers.

''(D) Productivity index of manufacturers and distributors.

''(E) Percentage of products with patent and market exclusivity protection versus products without patent protection and changes in the availability of generic substitutes.

''(F) Such other factors as the Secretary may determine are appropriate.

In no event may the sustainable growth rate exceed 120 percent of the estimated per capita growth in total spending under this title.

''(3) COMPUTATION FOR SUBSEQUENT YEARS.—In October of 2004 and each year thereafter, for purposes of setting the SGRs for the succeeding year, the Secretary shall adjust each current year's estimated expenditures by the estimated SGR for the succeeding year, further adjusted for corrections in earlier estimates and the receipt of additional data on previous years spending as follows:

''(A) ERROR ESTIMATES.—An adjustment (up or down) for errors in the estimate of total expenditures under this part for the previous year.

''(B) COSTS.—An adjustment (up or down) for corrections in the cost of production of prescriptions covered under this part between the current calendar year and the previous year.

''(C) TARGET.—An adjustment for any amount (over or under) that expenditures in the current year under this part are estimated to differ from the target amount set for the year. If expenditures in the current year are estimated to be—

''(i) less than the target amount, future target amounts will be adjusted downward; or

''(ii) more than the target amount, the Secretary shall notify all pharmaceutical manufacturers with sales of pharmaceutical prescription medicine products to medicare beneficiaries under this part, of a rebate requirement (except as provided in this subparagraph) to be deposited in the Federal Medicare Prescription Medicine Trust Fund.

''(D) REBATE DETERMINATION.—The amount of the rebate described in subparagraph (C)(ii) may vary among manufacturers and shall be based on the manufacturer's estimated contribution to the expenditure above the target amount, taking into consideration such factors as—

''(i) above average increases in the cost of the manufacturer's product;

''(ii) increases in utilization due to promotion activities of the manufacturer, wholesaler, or retailer;

''(iii) launch prices of new drugs at the same or higher prices as similar drugs already in the marketplace (so-called 'me too' or 'copy-cat' drugs);

''(iv) the role of the manufacturer in delaying the entry of generic products into the market; and

''(v) such other actions by the manufacturer that the Secretary may determine has contributed to the failure to meet the SGR target.

The rebates shall be established under such subparagraph so that the total amount of the rebates is estimated to ensure that the amount the target for the current year is estimated to be exceeded is recovered in lower spending in the subsequent year; except that, no rebate shall be made in any manufacturer's product which the Food and Drug Administration has determined is a breakthrough medicine (as determined under subsection (c)) or an orphan medicine.

''(c) BREAKTHROUGH MEDICINES.—

''(1) DETERMINATION.—For purposes of this section, a medicine is a 'breakthrough medicine' if the Drug Review Board (established under paragraph (3)) determines—

''(A) it is a new product that will make a significant and major improvement by reducing physical or mental illness, reducing mortality, or reducing disability; and

''(B) that no other product is available to beneficiaries that achieves similar results for the same condition at a lower cost.

''(2) CONDITION.—An exemption from rebates under subsection (b)(3) for a breakthrough medicine shall continue as long as the medicine is certified as a breakthrough medicine but shall be limited to 7 calendar years from 2003 or 7 calendar years from the date of the initial determination under paragraph (1), whichever is later.

''(3) DRUG REVIEW BOARD.—The Drug Review Board under this paragraph shall consist of the Commissioner of Food and Drugs, the Directors of the National Institutes of Health, the Director of the National Science Foundation, and 10 experts in pharmaceuticals, medical research, and clinical care, selected by the Commissioner of Food and Drugs from the faculty of academic medical centers, except that no person who has (or who has an immediate family member that has) any conflict of interest with any pharmaceutical manufacturer shall serve on the Board.

''(d) NO REVIEW.—The Secretary's determination of the rebate amounts under this section, and the Drug Review Board's determination of what is a breakthrough drug, are not subject to administrative or judicial review.

''APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS

''SEC. 1860J. (a) IN GENERAL.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Prescription Medicine Insurance Account, a Government contribution equal to—

''(1) the aggregate premiums payable for a month pursuant to section 1860D(a)(2) by individuals enrolled in the program under this part; plus

''(2) one-half the aggregate premiums payable for a month pursuant to such section for such individuals by former employers; plus

''(3) the benefits payable by reason of the application of paragraph (2) of section 1860B(a) (relating to catastrophic benefits).

''(b) APPROPRIATIONS TO COVER INCENTIVES FOR EMPLOYMENT-BASED RETIREE MEDICINE COVERAGE.—There are authorized to be appropriated to the Prescription Medicine Insurance Account from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for payment of incentive payments under section 1860H(c).

''PRESCRIPTION MEDICINE DEFINED

''SEC. 1860K. As used in this part, the term 'prescription medicine' means—

''(1) a drug that may be dispensed only upon a prescription, and that is described in subparagraph (A)(i), (A)(ii), or (B) of section 1927(k)(2); and

''(2) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act, and needles, syringes, and disposable pumps for the administration of such insulin.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO FEDERAL SUPPLEMENTARY HEALTH INSURANCE TRUST FUND.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(A) in the last sentence of subsection (a)—

(i) by striking ''and'' after ''section 201(i)(1)''; and

(ii) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the Prescription Medicine Insurance Account established by section 1860F'';

(B) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund),'';

(C) in the first sentence of subsection (h), by inserting before the period the following: ''and section 1860D(b)(4) (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund)''; and

(D) in the first sentence of subsection (i)—

(i) by striking ''and'' after ''section 1840(b)(1)''; and

(ii) by inserting before the period the following: '', section 1860D(b)(2) (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund)''.

(2) PRESCRIPTION MEDICINE OPTION UNDER MEDICARE+CHOICE PLANS.—

(A) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(i) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(ii) in subsection (i)(1), by striking ''parts A and B'' and inserting ''parts A, B, and D''.

(B) VOLUNTARY BENEFICIARY ENROLLMENT FOR MEDICINE COVERAGE.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under that part)'' after ''parts A and B''.

(C) ACCESS TO SERVICES.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(i) in subparagraph (D), by striking ''and'' at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

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

''(F) the plan for prescription medicine benefits under part D guarantees coverage of any specifically named covered prescription medicine for an enrollee, when prescribed by a physician in accordance with the provisions of such part, regardless of whether such medicine would otherwise be covered under an applicable formulary or discount arrangement.''.

(D) PAYMENTS TO ORGANIZATIONS.—Section 1853(a)(1)(A) of such Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(i) by inserting ''determined separately for benefits under parts A and B and under part D (for individuals enrolled under that part)'' after ''as calculated under subsection (c)'';

(ii) by striking ''that area, adjusted for such risk factors'' and inserting ''that area. In the case of payment for benefits under parts A and B, such payment shall be adjusted for such risk factors as''; and

(iii) by inserting before the last sentence the following: ''In the case of the payments for benefits under part D, such payment shall initially be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate. By 2006, the adjustments would be for the same risk factors applicable for benefits under parts A and B.''.

(E) CALCULATION OF ANNUAL MEDICARE +CHOICE CAPITATION RATES.—Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(i) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for benefits under parts A and B'' after ''capitation rate'';

(ii) in paragraph (6)(A), by striking ''rate of growth in expenditures under this title'' and inserting ''rate of growth in expenditures for benefits available under parts A and B''; and

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

''(8) PAYMENT FOR PRESCRIPTION MEDICINES.—The Secretary shall determine a capitation rate for prescription medicines—

''(A) dispensed in 2003, which is based on the projected national per capita costs for prescription medicine benefits under part D and associated claims processing costs for beneficiaries under the original medicare fee-for-service program; and

''(B) dispensed in each subsequent year, which shall be equal to the rate for the previous year updated by the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual enrolled under part D.''.

(F) LIMITATION ON ENROLLEE LIABILITY.—Section 1854(e) of such Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR PROVISION OF PART D BENEFITS.—In no event may a Medicare+Choice organization include as part of a plan for prescription medicine benefits under part D a requirement that an enrollee pay a deductible, or a coinsurance percentage that exceeds 20 percent.''.

(G) REQUIREMENT FOR ADDITIONAL BENEFITS.—Section 1854(f)(1) of such Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: ''Such determination shall be made separately for benefits under parts A and B and for prescription medicine benefits under part D.''.

(3) EXCLUSIONS FROM COVERAGE.—

(A) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(B) PRESCRIPTION MEDICINES NOT EXCLUDED FROM COVERAGE IF APPROPRIATELY PRESCRIBED.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(i) in subparagraph (H), by striking ''and'' at the end;

(ii) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

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

''(J) in the case of prescription medicines covered under part D, which are not prescribed in accordance with such part;''.

SEC. 4. SUBSTANTIAL REDUCTIONS IN THE PRICE OF PRESCRIPTION DRUGS FOR MEDICARE BENEFICIARIES.

(a) PARTICIPATING MANUFACTURERS.—

(1) IN GENERAL.—Each participating manufacturer of a covered outpatient drug shall make available for purchase by each pharmacy such covered outpatient drug in the amount described in paragraph (2) at the price described in paragraph (3).

(2) DESCRIPTION OF AMOUNT OF DRUGS.—The amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy is an amount equal to the aggregate amount of the covered outpatient drug sold or distributed by the pharmacy to medicare beneficiaries.

(3) DESCRIPTION OF PRICE.—The price at which a participating manufacturer shall make a covered outpatient drug available for purchase by a pharmacy is the price equal to the lowest of the following:

(A) The lowest price paid for the covered outpatient drug by any agency or department of the United States.

(B) The manufacturer's best price for the covered outpatient drug, as defined in section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)).

(C) The lowest price at which the drug is available (as determined by the Secretary) through importation consistent with the provisions of section 804 of the Federal Food, Drug, and Cosmetic Act.

(b) SPECIAL PROVISION WITH RESPECT TO HOSPICE PROGRAMS.—For purposes of determining the amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy under subsection (a), there shall be included in the calculation of such amount the amount of the covered outpatient drug sold or distributed by a pharmacy to a hospice program. In calculating such amount, only amounts of the covered outpatient drug furnished to a medicare beneficiary enrolled in the hospice program shall be included.

(c) ADMINISTRATION.—The Secretary shall issue such regulations as may be necessary to implement this section.

(d) REPORTS TO CONGRESS REGARDING EFFECTIVENESS OF SECTION.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall report to Congress regarding the effectiveness of this section in—

(A) protecting medicare beneficiaries from discriminatory pricing by drug manufacturers; and

(B) making prescription drugs available to medicare beneficiaries at substantially reduced prices.

(2) CONSULTATION.—In preparing such reports, the Secretary shall consult with public health experts, affected industries, organizations representing consumers and older Americans, and other interested persons.

(3) RECOMMENDATIONS.—The Secretary shall include in such reports any recommendations they consider appropriate for changes in this section to further reduce the cost of covered outpatient drugs to medicare beneficiaries.

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

(1) PARTICIPATING MANUFACTURER.—The term ''participating manufacturer'' means any manufacturer of drugs or biologicals that, on or after the date of enactment of this Act, enters into a contract or agreement with the United States for the sale or distribution of covered outpatient drugs to the United States.

(2) COVERED OUTPATIENT DRUG.—The term ''covered outpatient drug'' has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(3) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title, or both.

(4) HOSPICE PROGRAM.—The term ''hospice program'' has the meaning given that term under section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(f) EFFECTIVE DATE.—The Secretary shall implement this section as expeditiously as practicable and in a manner consistent with the obligations of the United States.

SEC. 5. AMENDMENTS TO PROGRAM FOR IMPORTATION OF CERTAIN PRESCRIPTION DRUGS BY PHARMACISTS AND WHOLESALERS.

Section 804 of the Federal Food, Drug, and Cosmetic Act (as added by section 745(c)(2) of Public Law 106–387) is amended—

(1) by striking subsections (e) and (f) and inserting the following subsections:

''(e) TESTING; APPROVED LABELING.—

''(1) TESTING.—Regulations under subsection (a)—

''(A) shall require that testing referred to in paragraphs (6) through (8) of subsection (d) be conducted by the importer of the covered product pursuant to subsection (a), or the manufacturer of the product;

''(B) shall require that, if such tests are conducted by the importer, information needed to authenticate the product being tested be supplied by the manufacturer of such product to the importer; and

''(C) shall provide for the protection of any information supplied by the manufacturer under subparagraph (B) that is a trade secret or commercial or financial information that is privileged or confidential.

''(2) APPROVED LABELING.—For purposes of importing a covered product pursuant to subsection (a), the importer involved may use the labeling approved for the product under section 505, notwithstanding any other provision of law.

''(f) DISCRETION OF SECRETARY REGARDING TESTING.—The Secretary may waive or modify testing requirements described in subsection (d) if, with respect to specific countries or specific distribution chains, the Secretary has entered into agreements or otherwise approved arrangements that the Secretary determines ensure that the covered products involved are not adulterated or in violation of section 505.'';

(2) by striking subsections (h) and (i) and inserting the following subsections:

''(h) PROHIBITED AGREEMENTS; NONDISCRIMINATION.—

''(1) PROHIBITED AGREEMENTS.—No manufacturer of a covered product may enter into a contract or agreement that includes a provision to prevent the sale or distribution of covered products imported pursuant to subsection (a).

''(2) NONDISCRIMINATION.—No manufacturer of a covered product may take actions that discriminate against, or cause other persons to discriminate against, United States pharmacists, wholesalers, or consumers regarding the sale or distribution of covered products.

''(i) STUDY AND REPORT.—

''(1) STUDY.—The Comptroller General of the United States shall conduct a study on the imports permitted under this section, taking into consideration the information received under subsection (a). In conducting such study, the Comptroller General shall—

''(A) evaluate importers' compliance with regulations, determine the number of shipments, if any, permitted under this section that have been determined to be counterfeit, misbranded, or adulterated; and

''(B) consult with the United States Trade Representative and United States Patent and Trademark Office to evaluate the effect of importations permitted under this section on trade and patent rights under Federal law.

''(2) REPORT.—Not later than 5 years after the effective date of final regulations issued pursuant to this section, the Comptroller General of the United States shall prepare and submit to Congress a report containing the study described in paragraph (1).'';

(3) in subsection (k)(2)—

(A) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following subparagraph:

''(A) The term 'discrimination' includes a contract provision, a limitation on supply, or other measure which has the effect of providing United States pharmacists, wholesalers, or consumers access to covered products on terms or conditions that are less favorable than the terms or conditions provided to any foreign purchaser of such products.'';

(4) by striking subsection (m); and

(5) by inserting after subsection (l) the following subsection:

''(m) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each subsequent fiscal year.''.

SEC. 6. REASONABLE PRICE AGREEMENT FOR FEDERALLY FUNDED RESEARCH.

(a) IN GENERAL.—If any Federal agency or any non-profit entity undertakes federally funded health care research and development and is to convey or provide a patent or other exclusive right to use such research and development for a drug or other health care technology, such agency or entity shall not make such conveyance or provide such patent or other right until the person who will receive such conveyance or patent or other right first agrees to a reasonable pricing agreement with the Secretary of Health and Human Services or the Secretary makes a determination that the public interest is served by a waiver of the reasonable pricing agreement provided in accordance with subsection (c).

(b) CONSIDERATION OF COMPETITIVE BIDDING.—In cases where the Federal Government conveys or licenses exclusive rights to federally funded research under subsection (a), consideration shall be given to mechanisms for determining reasonable prices which are based upon a competitive bidding process. When appropriate, the mechanisms should be considered where—

(1) qualified bidders compete on the basis of the lowest prices that will be charged to consumers;

(2) qualified bidders compete on the basis of the least sales revenues before prices are adjusted in accordance with a cost-based reasonable pricing formula;

(3) qualified bidders compete on the basis of the least period of time before prices are adjusted in accordance with a cost-based reasonable pricing formula;

(4) qualified bidders compete on the basis of the shortest period of exclusivity; or

(5) qualified bidders compete under other competitive bidding systems.

Such competitive bidding process may incorporate requirements for minimum levels of expenditures on research, marketing, maximum price, or other factors.

(c) WAIVER.—No waiver shall take effect under subsection (a) before the public is given notice of the proposed waiver and provided a reasonable opportunity to comment on the proposed waiver. A decision to grant a waiver shall set out the Secretary's finding that such a waiver is in the public interest.

SEC. 7. GAO ONGOING STUDIES AND REPORTS ON PROGRAM; MISCELLANEOUS REPORTS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the prescription medicine benefit program under part D of the medicare program under title XVIII of the Social Security Act (as added by section 3 of this Act), including an analysis of each of the following:

(1) The extent to which the administering entities have achieved volume-based discounts similar to the favored price paid by other large purchasers.

(2) Whether access to the benefits under such program are in fact available to all beneficiaries, with special attention given to access for beneficiaries living in rural and hard-to-serve areas.

(3) The success of such program in reducing medication error and adverse medicine reactions and improving quality of care, and whether it is probable that the program has resulted in savings through reduced hospitalizations and morbidity due to medication errors and adverse medicine reactions.

(4) Whether patient medical record confidentiality is being maintained and safeguarded.

(5) Such other issues as the Comptroller General may consider.

(b) REPORTS.—The Comptroller General shall issue such reports on the results of the ongoing study described in subsection (a) as the Comptroller General shall deem appropriate and shall notify Congress on a timely basis of significant problems in the operation of the part D prescription medicine program and the need for legislative adjustments and improvements.

(c) MISCELLANEOUS STUDIES AND REPORTS.—

(1) STUDY ON METHODS TO ENCOURAGE ADDITIONAL RESEARCH ON BREAKTHROUGH PHARMACEUTICALS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall seek the advice of the Secretary of the Treasury on possible tax and trade law changes to encourage increased original research on new pharmaceutical breakthrough products designed to address disease and illness.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include recommended methods to encourage the pharmaceutical industry to devote more resources to research and development of new covered products than it devotes to overhead expenses.

(2) STUDY ON PHARMACEUTICAL SALES PRACTICES AND IMPACT ON COSTS AND QUALITY OF CARE.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the methods used by the pharmaceutical industry to advertise and sell to consumers and educate and sell to providers.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include the estimated direct and indirect costs of the sales methods used, the quality of the information conveyed, and whether such sales efforts leads (or could lead) to inappropriate prescribing. Such report may include legislative and regulatory recommendations to encourage more appropriate education and prescribing practices.

(3) STUDY ON COST OF PHARMACEUTICAL RESEARCH.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the costs of, and needs for, the pharmaceutical research and the role that the taxpayer provides in encouraging such research.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include a description of the full-range of taxpayer-assisted programs impacting pharmaceutical research, including tax, trade, government research, and regulatory assistance. The report may also include legislative and regulatory recommendations that are designed to ensure that the taxpayer's investment in pharmaceutical research results in the availability of pharmaceuticals at reasonable prices.

(4) REPORT ON PHARMACEUTICAL PRICES IN MAJOR FOREIGN NATIONS.—Not later than January 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report on the retail price of major pharmaceutical products in various developed nations, compared to prices for the same or similar products in the United States. The report shall include a description of the principal reasons for any price differences that may exist.

SEC. 8. MEDIGAP TRANSITION PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under section 1882 of the Social Security Act on or after January 1, 2003, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

(b) ISSUANCE OF SUBSTITUTE POLICIES IF PRESCRIPTION DRUG COVERAGE IS OBTAINED THROUGH MEDICARE.—

(1) IN GENERAL.—The issuer of a medicare supplemental policy—

(A) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as ''A'', ''B'', ''C'', ''D'', ''E'', ''F'', or ''G'' (under the standards established under subsection (p)(2) of section 1882 of the Social Security Act, 42 U.S.C. 1395ss) and that is offered and is available for issuance to new enrollees by such issuer;

(B) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

(C) may not impose an exclusion of benefits based on a preexisting condition under such policy,

in the case of an individual described in paragraph (2) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

(2) INDIVIDUAL COVERED.—An individual described in this paragraph is an individual who—

(A) enrolls in a prescription drug plan under part D of title XVIII of the Social Security Act; and

(B) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as ''H'', ''I'', or ''J'' under the standards referred to in paragraph (1)(A) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

(3) ENFORCEMENT.—The provisions of paragraph (1) shall be enforced as though they were included in section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)).

(4) DEFINITIONS.—For purposes of this subsection, the term ''medicare supplemental policy'' has the meaning given such term in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)).

By Mr. HARKIN (for himself, Mr. HELMS, Mr. SCHUMER, Mr. HOLLINGS, and Mrs. FEINSTEIN):

S. 926. A bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma; to the Committee on Environment and Public Works.

Mr. HARKIN. Mr. President, the people of Burma continue to suffer at the hands of the world's most brutal military dictatorship which cynically calls itself the State Peace and Development Council, (SPDC). Now more than ever, as a nation committed to internationally-recognized human rights and worker rights, democracy, and freedom, America must heed the call of the International Labor Organization, (ILO), and support stronger, coordinated multilateral actions against Burma's repressive regime. In the face of overwhelming evidence of continued, systematic use of forced labor, including forced child labor in Burma, we must do all we can to deny any material support to the military dictators who rule that country with an iron fist.

Furthermore, there is no clear and tangible evidence that the latest informal, closed-door dialogue between the Burmese generals on one side and Aung San Suu Kyi and the other duly-elected leaders of the pro-democracy movement on the other side is bearing fruit. Therefore, we must demonstrate anew to the Burmese people our recognition of their nightmarish plight as well as our support for their noble struggle to achieve democratic governance.

In 1997, a strong, bipartisan majority of the Congress enacted some sanctions and former President Clinton issued an Executive Order in response to a prolonged pattern of egregious human rights violations in Burma. At the heart of those measures is the existing prohibition on U.S. private companies making new investments in Burma's infrastructure. Many other national governments, as well as scores of city and State governments in the U.S. followed suit and adopted their own sanctions.

Nevertheless, the ruling military junta in Burma has clung to power and continues to blatantly violate internationally-recognized human and worker rights. The 1999 State Department Human Rights Country Report on Burma cited ''credible reports that Burmese Army soldiers have committed rape, forced porterage, and extrajudicial killing.'' It referred to arbitrary arrests and the detention of at least 1300 political prisoners.

The following excerpts from the most recent 2000 State Department Human Rights Country Report paint an even more disturbing reality:

The Burmese Government's extremely poor human rights record and longstanding severe repression of its citizens continued during the year. Citizens continued to live subject at any time and without appeal to the arbitrary and sometimes brutal dictates of the military regime. Citizens did not have the right to change their government. There continued to be credible reports, particularly in ethnic minority areas, that security forces committed serious human rights abuses, including extrajudicial killings and rape. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused prisoners and detainees.

The judiciary is not independent and there is no effective rule of law.

The Government continued to restrict worker rights, ban unions, and use forced labor for public works and for the support of military garrisons. Forced labor, including forced child labor, remains a serious problem. The use of forced labor as porters by the army—with attendant mistreatment, illness, and sometimes death—remain a common practice. In November, 2000 the International Labor Organization ILO Governing Body judged that the Government had not taken effective action to deal with 'widespread and systematic' use of forced labor in the country and, for the first time in its history, called on all ILO members to apply sanctions to Burma. Child labor is also a problem and varies in severity depending on the country's region. Trafficking in persons, particularly in women and girls to Thailand and China, mostly for the purposes of prostitution, remain widespread.

As of September, 2000, the International Committee of the Red Cross had visited more than 35,000 prisoners in at least 30 prisons, including more than 1,800 political prisoners. The ICRC also has begun tackling the problem of the roughly 36,000 persons in forced labor camps.

The Government continued to infringe on citizens' privacy rights, and security forces continued to monitor citizens' movements and communications systematically, to search homes without warrants, and to relocate persons forcibly without just compensation or due process.

The SPDC continued to restrict severely freedom of speech, press assembly, and association. It has pressured many thousands of members to resign from the National League for Democracy, NLD, and closed party offices nationwide. Since 1990 the junta frequently prevented the NLD and other pro-democracy parties from conducting normal political activities. The junta recognizes the NLD as a legal entity; however, it refuses to accept the legal political status of key NLD party leaders, particularly the party's general secretary and 1991 Nobel Laureate, Aung San Suu Kyi, and restrict her activities severely through security measures and threats.

Furthermore, Human Rights Watch/Asia reports that children from ethnic minorities are forced to work under inhumane conditions for the Burmese Army, lacking adequate medical care and sometimes dying from beatings.

Last year, the UN Special Rapporteur on Burma, in a chilling and alarming account, puts the number of child soldiers at 50,000, the highest in the world. Sadly, the children most vulnerable to recruitment into the military are orphans, street children, and the children of ethnic minorities.

The same UN report also discusses the dire state of minorities in Burma who continue to be the targets of violence. Specifically, it details that the most frequently observed human rights violations aimed at minorities include extortion, rape, torture and other forms of physical abuse, forced labor, ''portering'', arbitrary arrests, long-term imprisonment, forcible relocation, and in some cases, extrajudicial executions. It also cites reports of massacres in the Shan state in the months of January, February, and May of 2000.

A 1998 International Labor Organization Commission of Inquiry determined that forced labor in Burma is practiced in a ''widespread and systematic manner, with total disregard for the human dignity, safety, health and basic needs of the people.''

Last August, California District Court Judge Ronald Lew found in one high-profile court case ''ample evidence in the record linking the Burmese Government's use of forced labor to human rights abuses.''

In sum, the Burmese military junta continues to commit such horrific and appalling human rights and worker rights violations that we have no choice but to unite with other nations around the world and take stronger action.

Even though the Burmese military junta has been terrorizing the 48 million people of Burma since it came to power in 1988 and has vowed to destroy the National League for Democracy, NLD, Aung San Suu Kyi, a remarkably courageous leader and very brave woman, manages to stand steadfast,

like a living Statue of Liberty, in her undaunted quest and that of the Burmese people for democracy. We must never forget that she and her NLD colleagues won 392 of 485 seats in a democratic election held in 1990. But they have never been allowed to take office.

Aung San Suu Kyi, the 1991 Nobel Peace Prize winner, and countless others are denied freedom of association, speech and movement on a daily basis. Last summer, she came under renewed threats and intimidation. For example, her vehicle was forced off the road last August by Burmese security forces when she tried to travel outside Rangoon to meet with her NLD colleagues. She sat in her car on the roadside for a week until a midnight raid of 200 riot police forced her back to her home and placed her under house arrest until September 14, 2000. Nevertheless, she tried again on September 21st, but she was prevented from boarding a train. The pathetic excuse from the authorities for abridging her freedom to travel within Burma, on that occasion, was that all tickets had been sold out.

This Congress must answer anew the cry of the Burmese people and their courageous freedom-fighters. That is why I am introducing bipartisan legislation today, along with Senator JESSEE HELMS and several of our colleagues, to ban soaring imports from Burma, most of which are apparel and textiles sold by many brand-name American retailers. I am equally pleased that U.S. Congressman TOM LANTOS from California is introducing the companion bill in the U.S. House of Representatives this week.

Most Americans think that a trade ban with Burma already exists. Nothing could be further from the truth. When I began investigating U.S. trade with Burma last summer in concern with the National Labor Committee, I was chocked and alarmed to discover skyrocketing U.S. apparel and textile imports for example.

Last November I requested cable traffic between the U.S. Embassy in Burma and the U.S. State Department at Foggy Bottom to see exactly what officials in Washington, D.C. knew about soaring imports from Burma. It took nearly four months for me to get this unclassified cable traffic. But now I know why. Its contents are very troubling. It constitutes irrefutable evidence that current U.S. sanctions with Burma are far more apparent than real. They are far more bluster than bite. Consider the fact that the U.S. Government currently provides the Burmese military junta with very easy access to the U.S. apparel market because 95 percent of their exports are under no practical import restrictions at all.

Due to rising imports of apparel and textiles from Burma alone, more than $400 million dollars are now flowing into the coffers of the Burmese military dictatorship. These ruthless military dictators and their drug-trafficking cohorts are spending this hard currency to purchase more guns from China and to buy loyalty among their troops to continue their policy of extreme repression and human cruelty.

In other words, American consumers are unwittingly helping to sustain the repressive military junta's grip on power when buying travel and sports bags, women's underwear, jumpers, shorts, tank tops and towels made in the Burmese gulag. It is outrageous that many brand-name U.S. apparel companies such as FILA, Jordache, and Arrow Golf are making more and more of their clothes in the Burmese gulag where many workers earn as little as 7 cent/hour or $3.23/week and where production is non-stop—24 hours/day and 7 days/week.

Make no mistake about it. U.S. apparel imports from Burma are providing the SPDC with a growing source of critically-needed hard currency because the military dictators directly own or have taken de facto control of production in many apparel and textile factories. They are further enriched by a 5 percent export tax. As I said earlier, this hard currency is used to finance the purchase of new weapons and ammunition from China and elsewhere, thus helping to underwrite the perpetuation of modern-day slavery, forced labor and forced child labor in Burma.

But you don't have to take my work for it. U Maung Maung, the General Secretary of the Federation of Trade Unions in Burma, decried at a recent news conference in Washington, D.C., that ''the practice of purchasing garments made in Burma extends the continued exploitation of my people, including the use of slave labor by the regime, by further delaying the return of democratic government in Burma.'' At grave personal risk, he and other NLD leaders have disclosed the growing importance of exports to America and other foreign markets in helping sustain the Burmese military junta in power.

Some may question whether a ban on Burmese trade, including apparel and textile imports, might not harm American companies and consumers? Nothing could be further from the truth. Currently, U.S. apparel and textile imports from Burma account for less than one-half of one percent of total U.S. apparel and textile imports.

Others may assert that enactment of this legislation would violate WTO rules. Yes, Burma does belong to the WTO. Accordingly, the SPDC would have the standing technically to bring a formal complaint when this legislation is enacted. But our response to such a development should be bring it on. Let the Burmese generals argue before the WTO that they have the right to export products made by forced labor and child slaves and in flagrant violation of other internationally-recognized worker rights. This would clearly bring into focus the folly of writing rules for global trade that don't include enforceable worker rights, thus compelling workers in civilized trading nations to have to compete for their jobs de facto with forced labor in Burma.

America must answer the clarion call of the ILO and take a stronger stand in solidarity with the Burmese people and in defense of universal human rights and worker rights in that besieged nation. A trade ban with Burma will reaffirm the belief of the American people that increased trade with foreign countries must promote respect for human rights and worker rights as well as property rights. It will also signal American readiness to join in a new and stronger course of coordinated, multilateral action that is designed to force the Burmese generals from power once and for all and to satisfy the yearning of the Burmese people for democratic, self-government.

In closing, I also ask unanimous consent that the text of the bill be printed in the RECORD and that four recent editorials from the Washington Post, the New York Times, and the Boston Globe calling attention to the profound and prolonged suffering of the Burmese people and the need for stronger action in the U.S. and around the world also be printed in the RECORD.

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

S. 926

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The International Labor Organization (ILO), invoking an extraordinary constitutional procedure for the first time in its 82-year history, adopted in 2000 a resolution calling on the State Peace and Development Council to take concrete actions to end forced labor in Burma.

(2) In this resolution, the ILO recommended that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the State Peace and Development Council do not abet the system of forced or compulsory labor in that country, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced or compulsory labor.

SEC. 2. UNITED STATES SUPPORT FOR MULTILATERAL ACTION TO END FORCED LABOR AND THE WORST FORMS OF CHILD LABOR IN BURMA.

(a) TRADE BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (2), no article that is produced, manufactured, or grown in Burma may be imported into the United States.

(2) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The State Peace and Development Council in Burma has made measurable and substantial progress in reversing the persistent pattern of gross violations of internationally-recognized human rights and worker rights, including the elimination of forced labor and the worst forms of child labor.

(B) The State Peace and Development Council in Burma has made measurable and

substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners; and

(ii) deepening, accelerating, and bringing to a mutually-acceptable conclusion the dialogue between the State Peace and Development Council (SPDC) and democratic leadership within Burma (including Aung San Suu Kyi and the National League for Democracy (NLD) and leaders of Burma's ethnic peoples).

(C) The State Peace and Development Council in Burma has made measurable and substantial progress toward full cooperation with United States counter-narcotics efforts pursuant to the terms of section 570(a)(1)(B) of Public Law 104–208, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997.

(b) EFFECTIVE DATE.—The provisions of this section shall apply to any article entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

[From the New York Times, May 11, 2001]

MYANMAR'S INCORRIGIBLE LEADERS

A few months ago it looked as if the military junta in Myanmar might ease its repressive rule slightly. The regime was talking with the country's courageous pro-democracy leader, Daw Aung San Suu Kyi, and there even seemed to be a possibility that she would be liberated from the prolonged house arrest the government has enforced. But those hopes have all but vanished. If the Bush administration means to speak out against human rights abuses abroad and pressure governments to treat their citizens humanely, Myanmar would be a fine place to start.

The military leaders of Myanmar, formerly called Burma, are among the world's cruelest violators of human rights. The junta has tortured and executed political opponents, exploited forced labor and condoned a burgeoning traffic in heroin and amphetamines. In the clearest indication that the regime has little intention of reforming, the United Nations special envoy who acted as a catalyst for the talks between the government and Mrs. Aung San Suu Kyi has been denied permission to visit the country since January. Also, an anticipated release of political prisoners has failed to materialize, as has a pledge by the junta that Mrs. Aung San Suu Kyi's party, the National League for Democracy, would be allowed to resume activity.

Earlier this year the junta released 120 mostly youthful members of the party who had been imprisoned the previous year, but it is still believed to be holding as many as 1,700 political prisoners, including 35 people who were elected to Parliament in 1990. Mrs. Aung San Suu Kyi's party won more than three-quarters of the seats in that election, but the junta annulled the results.

The United States and the European Union have cooperated to isolate Myanmar, and in 1997 the Clinton administration banned new American investments there. But some Asian countries have been reluctant to join in sanctions. China, in particular, has helped sustain the junta with military aid. Regrettably, last month Japan broke ranks with a Western-led 12-year ban on non-humanitarian assistance to Myanmar by approving a $29 million grant for a hydroelectric dam.

Last year the International Labor Organization, responding to concerns about forced labor, voted to urge governments and international donors to impose further sanctions on Myanmar. Washington should consider a ban on imports from that nation, including textiles. Myanmar is rapidly increasing apparel exports to the United States. Mrs. Aung San Suu Kyi's allies have argued that the hard-currency earnings primarily benefit the military, not the laborers who make the garments. Washington should certainly be using its influence with Japan and other Asian countries to deter any further non-humanitarian assistance.

[From the Boston Globe, May 7, 2001]

BURMA SANCTIONS' VALUE

When it comes to the military dictatorship ruling Burma, President Bush has an opportunity he should welcome to demonstrate the realism his advisers commend and, simultaneously, a firm commitment to America's democratic ideals.

The Burmese junta stands condemned by much of the world for its horrendous abuse of human rights, its complicity in the trafficking of heroin and methamphetamines, and its thwarting of the democratic government that was elected with 80 percent of the seats in Parliament in Burma's last free election, in 1990.

Currently, there are varying sanctions on the junta. The International Labor Organization, for the first time in its 81-year history, asked its members to sanction the regime for the continuing, brutal imposition of forced labor on Burmese and minority ethnic groups.

There are also European Union sanctions and restrictions imposed by the Clinton administration that prohibit new U.S. investment in Burma and ban senior officials in the regime from obtaining visas to enter the United States.

Although it is far from clear that the junta intends to permit a revival of democracy, there is little doubt that it has engaged in talks with Nobel Peace Prize winner Aung San Suu Kyi—who is held under virtual house arrest in Rangoon—in large part because of the unremitting pressure of sanctions.

As a result of sanctions, the officers in power cannot disguise their bankrupting of what had been one of Asia's most literate and resource-rich countries. Even the junta's principal sponsor for membership in the Association of Southeast Asian Nations, Prime Minister Mahathir Mohammad of Malaysia, has counseled Burma's ruling officers to ease the embarrassment of their fellow ASEAN members by opening a dialogue with Suu Kyi.

In a letter last month to Bush, 35 senators including Edward Kennedy and John Kerry made a strong case for maintaining sanctions, noting that ''the sanctions have been partially responsible for prompting the regime to engage in political dialogue with Aung San Suu Kyi and her supporters.'' The letter also said there is ''strong evidence directly linking members of the regime to'' the trafficking of ''the heroin which plagues our communities.''

Bush should insist that the junta take measurable steps toward the retrieval of democracy in Burma, and not merely for altruistic reasons. Next to the regime in North Korea, the Burmese junta has been Beijing's chummiest ally, permitting China to project its burgeoning power into the Bay of Bengal, to the dismay of India.

Were a democratic government to replace the junta, neighboring Thailand, which is now suffering from an influx of drugs from Burma, would join India and the rest of the region in breathing a sigh of relief.

[From the Washington Post, Nov. 26, 2000]

A REBUKE TO FORCED LABOR

Not in 81 years had the International Labor Organization imposed such sanctions; but Burma is a special case. The ILO, a United Nations arm in which unions, businesses and governments participate, found that the Asian nation also known as Myanmar has so flagrantly violated international norms that sanctions had to be imposed. In particular, its ruling generals were found guilty of encouraging forced and slave labor in ''a culture of fear.''

Burma is a special case in part because its dictators cannot even pretend to reflect the will of their people. In 1990, they permitted a national election. A pro-democracy party headed by Aung San Suu Kyi, daughter of Burma's hero of independence, won four out of five parliamentary seats. But parliament never met; the generals refused to accept the results. Aung San Suu Kyi, who won the Nobel peace prize in 1991, is under house arrest; most of her party colleagues are in prison. The generals grow more corrupt while Burma grows ever poorer.

The ILO sanctions approved last week are, as AFL-CIO president John Sweeney said, ''only a starting point.'' Nations are ''urged to halt any aid, trade or relationship that helps Burmese leaders remain in power,'' he said. The United States already has imposed restrictions on investment, but that hasn't stopped companies such as Unocal from mounting major efforts in the country. Nor has it prevented trade, much of which enriches only the generals.

Companies that do business in Burma now more than ever will have to explain themselves. So will nations that sought to water down the ILO action, including fellow autocracies like Malaysia and China and, more surprisingly, democracies like India and Japan. Those nations, though, found themselves very much in the minority, just as Burma finds itself more isolated than ever.

[From the New York Times, Nov. 19, 2000]

THE RUIN OF MYANMAR

The Southeast Asian nation of Myanmar is a case study in repression and misgovernment. For 12 years a secretive military junta has ground down the liberties and living standards of 50 million people. By banning most contact with the outside world and buying off the leadership of restive ethnic minorities, the junta has deflected serious challenges to its rule, despite the dismal failure of its economic policies and spreading social ills.

The military has ruled Myanmar since 1962, when it was known as Burma. After the violent suppression of democracy movement in 1988, an even more ruthless set of generals took charge. They permitted elections in 1990, then ignored the results when democratic forces led by Daw Aung Sang Suu Kyi won an overwhelming victory. She has spent 6 of the past 11 years under house arrest. Other leaders of her party have been relentlessly persecuted, university students have been relocated from the cities, and unions and civic associations have been prohibited. The junta has banned computer modems, e-mail and the Internet and made it a crime for people to invite foreigners into their homes.

The Times's Blaine Harden recently reported that Myanmar, which a half-century ago had one of Asia's best health care systems and highest literacy rates, is now near the bottom in these and many other measures of development as government spending has been diverted from schools and health care to the military. Most people now live on less than a dollar a day. Drug smuggling and AIDS have grown explosively and threaten to spill over to neighboring countries like China and Thailand.

The United States has led international efforts to isolate Myanmar through economic sanctions, including a ban on new investment. But other Asian countries have been reluctant to apply pressure. China, in particular, has helped sustain the junta through

military aid. But an increasing number of countries are losing patience. Last week the 175-member International Labor Organization took the unusual step of condemning the junta's use of forced labor and invited member countries to impose sanctions. A good start would be restricting trade and investment in areas of the economy that profit from forced labor. Washington too should consider additional steps like encouraging disinvestment by American companies. Myanmar's people deserve international support in their struggle against a destructive tyranny.

By Mr. CORZINE:

S. 927. A bill to amend title 23, United States Code, to provide for a prohibition on use of mobile telephones while operating a motor vehicle; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, today I am introducing a bill, the Mobile Telephone Driving Safety Act of 2001, to enhance highway safety by encouraging States to restrict the use of cell phones while operating a motor vehicle.

The cell phone is an important and valuable type of technology that has grown increasingly popular throughout our nation. But as cell phone use has grown, so has a related problem, the increasing number of traffic accidents caused by drivers who are distracted by cell phone use.

The risks of driving while talking on the phone were made very clear to many Americans when on April 29, 2001 a car containing model Nikki Taylor crashed into a utility pole. The driver of the car admitted that he had been distracted from operating the car when he tried to answer his cellular telephone. That few second distraction was all that was necessary to cause the crash. As a result, Ms. Taylor suffered severe and life-threatening injuries.

Unfortunately, Ms. Taylor's case is just the most visible recent example of a much broader problem. Several studies have established that using a cell phone while driving substantially increases the risk of an accident. One, published in the New England Journal of Medicine, concluded that ''use of cellular telephones in motor vehicles is associated with a quadrupling of the risks of a collision during the brief period of a call''. The study goes on to say ''this relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit''.

In response to the growing problem of cell phone use while driving, counties and municipalities around the country, including two municipalities in my own State of New Jersey, have banned the use of cell phones while driving on their roads. Just recently, Governor Pataki of New York endorsed similar statewide legislation. Yet, at this point, no State has actually enacted such a law. Many cite strong industry resistance to explain the failure of state legislatures to act.

While some wireless industry representatives may resist cell phone driving safety legislation, the American people strongly support the idea. A recent poll by Quinnipiac University showed that 87 percent of New York voters support such a ban. This survey echoes the results from other surveys taken nationwide.

In addition to preventing accidents and saving lives, a ban on cell phone use while driving also would help lower the cost of auto insurance. That is especially important to me because I represent a state in which insurance premiums are among the highest in the nation.

The Mobile Telephone Driving Safety Act of 2001 is structured in a manner similar to other Federal laws designed to promote highway safety, such as laws that encourage states to enact tough drunk driving standards. Under the legislation, a portion of Federal highway funds would be withheld from States that do not enact a ban on cell phone use while driving. Initially, this funding could be restored if states act to move into compliance. Later, the highway funding forfeited by one state would be distributed to other states that are in compliance. Experience has shown that the threat of losing highway funding is very effective in ensuring that states comply.

To meet the bill's requirements, States would have to ban cell phone use while driving. However, such a ban need not be absolute. It could include an exception where there are exceptional circumstances, such as the use of a phone to report a disabled vehicle or medical emergency. In addition, if a state makes a determination that the use of ''hands free'' cell phones does not pose a threat to public safety, such use could be exempted from the ban, as well.

This is a necessary bill to keep our streets and highways safe. I urge my colleagues to support this legislation.

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

S. 928. A bill to amend the Age Discrimination in Employment Act of 1967 to require, as a condition of receipt or use of Federal financial assistance, that States waive immunity to suit for certain violations of that Act, and to affirm the availability of certain suits for injunctive relief to ensure compliance with that Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. JEFFORDS. Mr. President, I am pleased to be here today to introduce legislation that will restore to state employees the ability to bring claims of age discrimination against their employers under the Age Discrimination and Employment Act of 1967. The Older Workers Rights Restoration Act of 2001 seeks to provide state employees who allege age discrimination the same procedures and remedies as those afforded to other employees with respect to ADEA.

This legislation is needed to protect older workers like Professor Dan Kimel, who has taught physics Florida State University for nearly 35 years. Professor Kimel testified at a recent hearing before the Senate Health, Education, Labor and Pensions Committee that, despite his years of faithful service, in 1992 he was earning less in real dollars than his starting salary. To add insult to injury, his employer was hiring younger faculty out of graduate schools at salaries that were higher than he and other long-service faculty members were earning. In 1995, Professor Kimel and 34 colleagues brought a claim of age discrimination against the Florida Board of Regents.

Dan Kimel and his colleagues brought their cases under the Age Discrimination and Employment Act of 1967, ADEA. In 1974, Congress amended the ADEA to ensure that state employees, such as Dan Kimel had full protection against age discrimination. I stand before you today because this past year the Supreme Court ruled that Dan Kimel and other affected faculty do not have the right to bring their ADEA claims against their employer. The Court in Kimel v. Florida Board of Regents, held that Congress did not have the power to abrogate state sovereign immunity to individuals under the ADEA. As a result of the decision, state employees, who are victims of age discrimination, no longer have the remedies that are available to individuals who work in the private sector, for local governments or for the federal government. Indeed, unless a state chooses to waive its sovereign immunity or the Equal Employment Opportunity Commission decides to bring a suit, state workers no longer have a federal remedy for their claims of age discrimination. In effect, this decision has transformed older state employees into second class citizens.

For a right without a remedy is no right at all. Employees should not have to lose their right to redress simply because they happen to work for a state government. And a considerable portion of our workforce has been impacted. In Vermont, for example, the State is one of our largest employers. We cannot and should not permit these state workers to lose the right to redress age discrimination.

This legislation will resolve this problem. The Older Workers Rights Restoration Act of 2001 will restore the full protections of the ADEA to Dan Kimel and countless other state employees in federally assisted programs. The legislation will do this by requiring the states to waive their sovereign immunity as a condition of receiving federal funds for their programs or activities. The Older Workers Rights Restoration Act of 2001 follows the framework of many other civil rights laws, including the Civil Rights Restoration Act of 1987. Under this framework, immunity is only waived with regard to the program or activity actually receiving federal funds. States are not obligated to accept such funds; and if they do not they are immune from private ADEA suits. The legislation also

confirms that these employees may bring actions for equitable relief under the ADEA.

I urge all my colleagues to join me in supporting this bill.

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

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

S. 928

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 ''Older Workers' Rights Restoration Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since 1974, the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) has prohibited States from discriminating in employment on the basis of age. In EEOC v. Wyoming, 460 U.S. 226 (1983), the Supreme Court upheld Congress' constitutional authority to prohibit States from discriminating in employment on the basis of age. The prohibitions of the Age Discrimination in Employment Act of 1967 remain in effect and continue to apply to the States, as the prohibitions have for more than 25 years.

(2) Age discrimination in employment remains a serious problem both nationally and among State agencies, and has invidious effects on its victims, the labor force, and the economy as a whole. For example, age discrimination in employment—

(A) increases the risk of unemployment among older workers, who will as a result be more likely to be dependent on government resources;

(B) prevents the best use of available labor resources;

(C) adversely effects the morale and productivity of older workers; and

(D) perpetuates unwarranted stereotypes about the abilities of older workers.

(3) Private civil suits by the victims of employment discrimination have been a crucial tool for enforcement of the Age Discrimination in Employment Act of 1967 since the enactment of that Act. In Kimel v. Florida Board of Regents, 120 S. Ct. 631 (2000), however, the Supreme Court held that Congress lacks the power under the 14th amendment to the Constitution to abrogate State sovereign immunity to suits by individuals under the Age Discrimination in Employment Act of 1967. The Federal Government has an important interest in ensuring that Federal financial assistance is not used to subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967. Private civil suits are a critical tool for advancing that interest.

(4) As a result of the Kimel decision, although age-based discrimination by State employers remains unlawful, the victims of such discrimination lack important remedies for vindication of their rights that are available to all other employees covered under that Act, including employees in the private sector, local government, and the Federal Government. Unless a State chooses to waive sovereign immunity, or the Equal Employment Opportunity Commission brings an action on their behalf, State employees victimized by violations of the Age Discrimination in Employment Act of 1967 have no adequate Federal remedy for violations of that Act. In the absence of the deterrent effect that such remedies provide, there is a greater likelihood that entities carrying out programs and activities receiving Federal financial assistance will use that assistance to violate that Act, or that the assistance will otherwise subsidize or facilitate violations of that Act.

(5) Federal law has long treated nondiscrimination obligations as a core component of programs or activities that, in whole or part, receive Federal financial assistance. That assistance should not be used, directly or indirectly, to subsidize invidious discrimination. Assuring nondiscrimination in employment is a crucial aspect of assuring nondiscrimination in those programs and activities.

(6) Discrimination on the basis of age in programs or activities receiving Federal financial assistance is, in contexts other than employment, forbidden by the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). Congress determined that it was not necessary for the Age Discrimination Act of 1975 to apply to employment discrimination because the Age Discrimination in Employment Act of 1967 already forbade discrimination in employment by, and authorized suits against, State agencies and other entities that receive Federal financial assistance. In section 1003 of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7), Congress required all State recipients of Federal financial assistance to waive any immunity from suit for discrimination claims arising under the Age Discrimination Act of 1975. The earlier limitation in the Age Discrimination Act of 1975, originally intended only to avoid duplicative coverage and remedies, has in the wake of the Kimel decision become a serious loophole leaving millions of State employees without an important Federal remedy for age discrimination, resulting in the use of Federal financial assistance to subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967.

(7) The Supreme Court has upheld Congress' authority to condition receipt of Federal financial assistance on acceptance by the States or other recipients of conditions regarding or related to the use of that assistance, as in Cannon v. University of Chicago, 441 U.S. 677 (1979). The Court has further recognized that Congress may require a State, as a condition of receipt of Federal financial assistance, to waive the State's sovereign immunity to suits for a violation of Federal law, as in College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999). In the wake of the Kimel decision, in order to assure compliance with, and to provide effective remedies for violations of, the Age Discrimination in Employment Act of 1967 in State programs or activities receiving or using Federal financial assistance, and in order to ensure that Federal financial assistance does not subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967, it is necessary to require such a waiver as a condition of receipt or use of that assistance.

(8) A State's receipt or use of Federal financial assistance in any program or activity of a State will constitute a limited waiver of sovereign immunity under section 7(g) of the Age Discrimination in Employment Act of 1967 (as added by section 4 of this Act). The waiver will not eliminate a State's immunity with respect to programs or activities that do not receive or use Federal financial assistance. The State will waive sovereign immunity only with respect to suits under the Age Discrimination in Employment Act of 1967 brought by employees within the programs or activities that receive or use that assistance. With regard to those programs and activities that are covered by the waiver, the State employees will be accorded only the same remedies that are accorded to other covered employees under the Age Discrimination in Employment Act of 1967.

(9) The Supreme Court has repeatedly held that State sovereign immunity does not bar suits for prospective injunctive relief brought against State officials, as in Ex parte Young, 209 U.S. 123 (1908). Clarification of the language of the Age Discrimination in Employment Act of 1967 will confirm that that Act authorizes such suits. The injunctive relief available in such suits will continue to be no broader than the injunctive relief that was available under that Act before the Kimel decision, and that is available to all other employees under that Act.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide to State employees in programs or activities that receive or use Federal financial assistance the same rights and remedies for practices violating the Age Discrimination in Employment Act of 1967 as are available to other employees under that Act, and that were available to State employees prior to the Supreme Court's decision in Kimel v. Florida Board of Regents, 120 S. Ct. 631 (2000);

(2) to provide that the receipt or use of Federal financial assistance for a program or activity constitutes a State waiver of sovereign immunity from suits by employees within that program or activity for violations of the Age Discrimination in Employment Act of 1967; and

(3) to affirm that suits for injunctive relief are available against State officials in their official capacities for violations of the Age Discrimination in Employment Act of 1967.

SEC. 4. REMEDIES FOR STATE EMPLOYEES.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following:

''(g)(1)(A) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

''(B) In this paragraph, the term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).

''(2) An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures of subsections (d) and (e), for injunctive relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).''.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of such provision or amendment to another person or circumstance shall not be affected.

SEC. 6. EFFECTIVE DATE.

(a) WAIVER OF SOVEREIGN IMMUNITY.—With respect to a particular program or activity, section 7(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(1)) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(b) SUITS AGAINST OFFICIALS.—Section 7(g)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(2)) applies to any suit pending on or after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I am honored today to join Chairman JEFFORDS and Senator FEINGOLD to introduce the Older Workers' Rights Restoration Act of 2001. Our goal is to restore to older state government workers the right to seek remedies for age discrimination. A recent decision by the Supreme Court took that right away. State workers now have fewer federal protections against age discrimination than other employees in the country. This bill will remedy that injustice.

In 1967, Congress outlawed age discrimination in employment in the private sector by passing the Age Discrimination in Employment Act. In 1974, recognizing that employees of state government agencies were also often subject to pervasive and arbitrary age discrimination, Congress extended the Act to cover state governments. For more than 25 years, state employees were protected from age discrimination, and had the same remedies as all other employees covered by this law.

But in Kimel v. Florida Board of Regents, decided last year, the Supreme Court held that Congress lacked the power to subject states to suits under the federal age discrimination laws. As a result, unless a state agrees to allow suits against its agencies in such cases, state employees cannot seek relief on their own behalf to remedy age discrimination.

In a recent hearing before the Labor Committee, I was privileged to hear the eloquent testimony of Dr. J. Daniel Kimel, the plaintiff in the Supreme Court case. Dr. Kimel has been a professor of physics at Florida State University for 35 years and is paid less than younger faculty. Because of the Supreme Court's ruling, Dr. Kimel has been unable to seek any remedy at all for this age-based salary discrimination.

Large numbers of State employees, those who work for State colleges and universities, State police forces, State departments of transportation, State environmental protection agencies and many other State agencies, lack effective Federal remedies for age discrimination. That result is unfair. These State workers are vulnerable to age discrimination, which wastes valuable talent and adversely affects morale.

No worker should be subject to discriminatory hiring, firing, or other job action based on age or any other characteristic that has nothing to do with job performance. We must act to see that workers are adequately protected against this threat.

The bill that Chairman JEFFORDS, Senator FEINGOLD and I are introducing today is in the best tradition of the nation's civil rights laws. It provides that when a State program receives Federal tax dollars, the program must permit its employees to seek remedies under the Federal age discrimination law. The courts have long recognized that Congress can act to see that Federal funds are not used to subsidize discrimination, and this is what our bill will do. In fact, all of the scholars who testified in our Committee hearing agree that this is an appropriate and constitutional use of Congress' power.

This important bill will help to ensure that all Americans are protected from age discrimination in employment. I urge my colleagues to join me in supporting this needed legislation.

By Mr. HUTCHINSON:

S. 929. A bill to amend the National Labor Relations Act to preserve charitable giving; to the Committee on Health, Education, Labor, and Pensions.

Mr. HUTCHINSON. Mr. President, I rise today to introduce the Preserve Charitable Giving Act. I am proud of this legislation but am profoundly saddened that it has become necessary.

Aggressive union organizing tactics have made this legislation necessary because those tactics have forced many of our nation's largest retailers who allow charities to solicit donations on their premises to also give unions access to their premises for the express purpose of organizing or face a flurry of unfair labor practice charges. When faced with this situation, these retailers are thus forced to deny access to everyone, resulting in a loss of charitable donations. The magnitude of this loss cannot be overstated, as charitable donations raised through Wal*Mart alone are over $127 million annually. This means that there are now fewer hot meals for the hungry, fewer toys for poor children, and less clothing and shelter for the homeless.

This is unacceptable. Companies should not be forced to choose between furthering charity or increasing union membership. The Preserve Charitable Giving Act will clarity the National Labor Relations Act so that retailers who choose to allow access to their premises for charitable solicitations will not also be forced to give access for union organizing purposes. Thus, I ask my colleagues to preserve charitable giving by helping to enact this legislation.

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

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

S. 929

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 ''Preserve Charitable Giving Act''.

SEC. 2. PROPERTY ACCESS.

Section 8(a)(1) of the National Labor Relations Act is amended by adding after ''section 7'' the following: ''*Provided*, That in the case of a published, written, or posted no solicitation or no access rule, an exception for charitable, eleemosynary, or other beneficent purposes shall not be grounds for finding an unfair labor practice''.

By Mr. MCCAIN:

S. 930. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon National Park to secure bonds for capital improvements, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I rise today to introduce legislation that will authorize the Secretary of Interior to develop and implement a bonding program to help finance capital improvement projects at the Grand Canyon National Park in Arizona.

For the past few years, I have worked on legislation to implement a national parks bonding program to benefit the National Parks system by proposing a unique public-private partnership mechanism to finance capital improvements through bond revenues. This legislation has received substantial support by many of the organizations working with the National Parks system. The legislation I am introducing today is similar to the National Parks Capital Improvements Act of 2001, but it specifically authorizes a park-specific bonding program for the Grand Canyon National Park in my home state of Arizona.

This park-specific proposal is similar to actions taken back in the late 1980's to legislate a solution to the air traffic and noise pollution problems affecting the Grand Canyon National Park caused by overflights over the canyon. Congress enacted legislation to require specific measures to mitigate air traffic through the National Parks Overflights Act. Once a framework for the Grand Canyon National Park was established, it became clear that broader legislation was necessary to address similar overflights issues to promote safety and quiet in the entire national parks system.

Much in the same way, I am proposing to allow the Secretary of Interior to utilize the bonding mechanism at the Grand Canyon National Park, in partnership with a supporting organization. Bonding has worked well in other governmental sectors to leverage additional financing for local projects where federal or state resources are not otherwise sufficient or available.

This bonding legislation, as well as the broader national parks bonding bill, would allow the Grand Canyon National Park to utilize up to $2 of its existing fee structure to dedicate to securing bonds to finance capital improvement projects. For example, based on current visitation rates at the Grand Canyon, a $2 surcharge would enable us to raise $100 million from a bond issue amortized over 20 years. That is a significant amount of money which could be used to accomplish many critical park projects. With approximately 1.2 million acres to protect, this type of financial tool would go far to help redress the backlog of needed repairs, maintenance and other

approved projects at the Grand Canyon National Park.

I remain committed to broader legislation to implement a park-wide bonding program. However, I am proposing that we should also consider testing this innovative approach by authorizing its use to help protect one of the nation's largest and most magnificent parks, the Grand Canyon.

I ask unanimous consent to print the text of this bill in the RECORD.

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

S. 930

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Grand Canyon Capital Improvements Act of 2001''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) FUNDRAISING ORGANIZATION.—The term ''fundraising organization'' means an entity authorized to act as a fundraising organization under section 3(a).

(2) MEMORANDUM OF AGREEMENT.—The term ''memorandum of agreement'' means a memorandum of agreement entered into by the Secretary under section 3(a) that contains the terms specified in section 4.

(3) PARK.—The term ''Park'' means the Grand Canyon National Park.

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

SEC. 3. FUNDRAISING ORGANIZATION.

(a) IN GENERAL.—The Secretary may enter into a memorandum of agreement under section 4 with an entity to act as an authorized fundraising organization for the benefit of the Park.

(b) BONDS.—The fundraising organization for the Park shall issue taxable bonds in return for the surcharge or set-aside for the Park collected under section 5.

(c) PROFESSIONAL STANDARDS.—The fundraising organization shall abide by all relevant professional standards regarding the issuance of securities and shall comply with all applicable Federal and State law.

(d) AUDIT.—The fundraising organization shall be subject to an audit by the Secretary.

(e) NO LIABILITY FOR BONDS.—The United States shall not be liable for the security of any bonds issued by the fundraising organization.

SEC. 4. MEMORANDUM OF AGREEMENT.

The fundraising organization shall enter into a memorandum of agreement that specifies—

(1) the amount of the bond issue;

(2) the maturity of the bonds, not to exceed 20 years;

(3) the per capita amount required to amortize the bond issue, provide for the reasonable costs of administration, and maintain a sufficient reserve consistent with industry standards;

(4) the project or projects at the Park that will be funded with the bond proceeds and the specific responsibilities of the Secretary and the fundraising organization with respect to each project; and

(5) procedures for modifications of the agreement with the consent of both parties based on changes in circumstances, including modifications relating to project priorities.

SEC. 5. PARK SURCHARGE OR SET-ASIDE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may authorize the Superintendent of the Park—

(1) to charge and collect a surcharge in an amount not to exceed $2 for each individual otherwise subject to an entrance fee for admission to the Park; or

(2) to set aside not more than $2 for each individual charged the entrance fee.

(b) SURCHARGE IN ADDITION TO ENTRANCE FEES.—The Park surcharge under subsection (a) shall be in addition to any entrance fee collected under—

(1) section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a);

(2) the recreational fee demonstration program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134; 110 Stat. 1321–156; 1321–200; 16 U.S.C. 4601–6a note); or

(3) the national park passport program established under title VI of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5991 et seq.).

(c) LIMITATION.—The total amount charged or set aside under subsection (a) may not exceed $2 for each individual charged an entrance fee.

(d) USE.—A surcharge or set-aside under subsection (a) shall be used by the fundraising organization to—

(1) amortize the bond issue;

(2) provide for the reasonable costs of administration; and

(3) maintain a sufficient reserve consistent with industry standards, as determined by the bond underwriter.

SEC. 6. USE OF BOND PROCEEDS.

(a) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), bond proceeds under this Act may be used for a project for the design, construction, operation, maintenance, repair, or replacement of a facility in the Park.

(2) PROJECT LIMITATIONS.—A project referred to in paragraph (1) shall be consistent with—

(A) the laws governing the National Park System;

(B) any law governing the Park; and

(C) the general management plan for the Park.

(3) PROHIBITION ON USE FOR ADMINISTRATION.—Other than interest as provided in subsection (b), no part of the bond proceeds may be used to defray administrative expenses.

(b) INTEREST ON BOND PROCEEDS.—Any interest earned on bond proceeds may be used by the fundraising organization to—

(1) meet reserve requirements; and

(2) defray reasonable administrative expenses incurred in connection with the management and sale of the bonds.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 2 years after the promulgation of regulations under section 8, the Secretary shall submit to Congress a report on the bond program.

(b) REQUIREMENTS.—The report shall include—

(1) a review of the bond program carried out under this Act at the Park; and

(2) recommendations to Congress on whether to establish a bond program at all units of the National Park System.

SEC. 8. REGULATIONS.

The Secretary, in consultation with the Secretary of Treasury, shall promulgate regulations to carry out this Act.

By Mr. HARKIN (for himself, Mr. SMITH of Oregon, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SCHUMER, Mr. DORGAN, Mr. DAYTON, Mrs. CLINTON, Ms. STABENOW, Mr. KENNEDY, Mr. KOHL, Mr. KERRY, Mr. SARBANES. Mr. WELLSTONE, Mr. DURBIN, and Mrs. BOXER):

S. 932. A bill to amend the Food Security Act of 1985 to establish the conservation security program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today I am introducing the Conservation Security Act of 2001, a bill that represents a fresh bipartisan farmer-friendly approach to farm policy and agricultural conservation. I am pleased to be joined by my colleague Senator GORDAN SMITH from Oregon, as well as Senators DASCHLE, LEAHY, DORGAN, JOHNSON, DAYTON, SCHUMER, CLINTON, STABENOW, KOHL, SARBANES, KERRY, KENNEDY, WELLSTONE, DURBIN, and BOXER.

America's farmers and ranches produce a bountiful, safe, and nourishing food supply, and they also protect our natural resources, environment and wildlife habitat. Farmers and ranches have a long history of stewardship of private lands. They are the key to enhancing conservation of resources for future generations.

Private land conservation became a national priority in the days of the Dust Bowl, leading to the creation in the 1930s of the Soil Conservation Service, (now the Natural Resources Conservation Service), at the Department of Agriculture. With the very foundation of our food supply at risk, the federal government stepped forward with billions of dollars in assistance to help farmers conserve their precious soils.

Since that time, total federal spending on conservation has steadily declined in inflation-adjusted dollars. Funds for lands in production have been especially hard hit. Yet today, agriculture faces a wide range of environmental challenges, from overgrazing and manure management to cropland runoff and air quality impairment. Urban and rural citizens alike are increasingly interested in supporting conservation on agricultural lands.

Farmers and ranchers pride themselves on being good stewards of the land, but they are limited by financial constraints. Every dollar spent on constructing a filter strip or developing a nutrient management plan is a dollar unavailable for other purposes. And even in better times, there is a lot of competition for each dollar in a farm's budget.

Who benefits from conservation on agricultural lands? As much or more than farmers, all of us, depend on the careful stewardship of our air, water, soil and other natural resources. Farmers and ranchers tend not only to their crops and animals, but also to our nation's natural resources.

Since all Americans share in these benefits, it is only right that we contribute to conserving private lands. It

is time to enter into a true conservation partnership with farmers and ranchers to help ensure hat conservation is an integral and permanent part of our agricultural policy nationwide.

In the 1985 farm bill, we required farmers who wanted to participate in USDA farm programs to develop soil conservation plans for their highly erodible land. This provision helped put new conservation plans in place for our most fragile farmlands. In the most recent farm bill, we streamlined conservation programs and established new cost-share and incentive payments for certain practices. These measures have helped enhance the environment and natural resources, but we still have more to do.

The Conservation Security Act of 2001 builds on our past successes and takes a bold step forward in farm and conservation policy.

The Conservation Security Act would establish a universal and voluntary incentive payment program, the Conservation Security Program, to support and encourage conservation activities by farmers and ranchers. Under this program, farmers and ranchers could receive as much as $50,000 a year in conservation payments by entering into 5- to 10-year agreements with USDA and carrying out eligible conservation practices. Moreover, the program is designed to encourage implementation of practices that address local conservation priorities. Payments are based on the number and types of practices and level of conservation carried out on their lands in agricultural production. Farmers and ranchers may choose to implement practices from one or more of the following three tiers of practices.

In Tier I, participating farmers would adopt or maintain basic individual practices, including nutrient management, soil conservation, and wildlife habitat management on part or all of their operation. Tier I plans are for 5-year periods. Based on enrolled acreage, practices and the level of conservation, farmers or ranchers in Tier I would receive annual payments that could reach as much as $20,000. A one-time advance payment could be made of the greater of $1,000 or 20 percent of the annual payment.

Farmers or ranchers in Tier II would implement more extensive conservation practices on their working lands. They could choose from Tier I practices and practices II practices, including controlled rotational grazing, partial field practices like buffers strips and windbreaks, wetland restoration and wildlife habitat enhancement, for a period of 5 to 10 years, at the farmer's discretion. The practices adopted in Tier II must address at least one resource of concern (i.e. water quality, air quality, soil quality, wildlife habitat, etc.) for the entire operation. For adopting or maintaining Tier II practices, farmers or ranchers would receive up to $35,000 a year with access to a one-time advance payment of the greater of $2,000 or 20 percent of the annual payment.

To qualify under Tier III, farmers and ranchers would adopt a comprehensive set of conservation practices on the entire operation. The Practices would address all resources of concern on the operation, including air, land, water and wildlife. For carrying out a Tier III plan of practices, farmers and ranchers would receive up to $50,000 a year with access to a one-time advance payment of the greater of $3,000 or 20 percent of the annual payment.

Again, I emphasize, the Conservation Security Program would be totally voluntary. Farmers and ranchers would decide if they want to participate and to what extent they want to participate. The more conservation they do, the greater the payment. Many farmers are already using many of these practices, but they receive little or no financial support. This legislation changes that by rewarding those farmers and ranchers who have already implemented these practices through payments for maintaining them.

In addition, the Conservation Security Act provides a strong incentive to go beyond the farm's current level of conservation. And it does so in a way that is compatible with our international trade obligations. The payments received under the Conservation Security Program would fit into the ''Green Box'' under the WTO Uruguay Round.

Payments received under the Conservation Security Program are not linked to participation in commodity programs, and farmers don't have to participate in the Conservation Security Program to be eligible for commodity payments. Further, the Conservation Security Act, which focuses on land in production, complements and does not interfere with the existing conservation programs. A farmer or rancher may participate in these programs, including the Conservation Reserve Program, the Wetlands Reserve Program, and the Farmland Protection Program and still participate in the Conservation Security Program. We need to support these and the other conservation programs, but to truly benefit agriculture and address the public's desire to enhance the environment, natural resources and wildlife habitat on agricultural land we must also address conservation needs on land in production.

Farmers and ranchers across our country want to take actions to enhance the environment, but they need financial and technical assistance. The Conservation Security Act provides that needed assistance. Further, the Conservation Security Act was crafted to include opportunities for all producers nationwide, including producers of fruits, vegetables, speciality crops, row crops and livestock to participate in the Conservation Security Program.

Our private lands are a national treasure, and conservation on farm and ranchlands provides environmental benefits that are just as important as the production of abundant and safe food. The Conservation Security Act will help secure the economic future of our farmers and ranchers by providing them the means to increase their income while conserving our natural resources, the environment, and wildlife habitat for today and for future generations.

I thank the Chair.

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. 932

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 ''Conservation Security Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in addition to producing food and fiber, agricultural producers can contribute to the public good by providing improved soil productivity, clean air and water, fish and wildlife habitat, landscape and recreational amenities, and other natural resources and environmental benefits;

(2) agricultural producers in the United States have a long history of embracing environmentally friendly conservation practices and desire to continue those practices and engage in new and additional conservation practices;

(3) agricultural producers that engage in conservation practices—

(A) may not receive economic rewards for implementing conservation practices; and

(B) should be encouraged to engage in good stewardship, and should be rewarded for doing so;

(4) despite significant progress in recent years, significant environmental challenges on agricultural land remain;

(5) since the 1930's, when agricultural conservation became a national priority, Federal resources for conservation assistance have declined over 50 percent, when adjusted for inflation;

(6) existing conservation programs do not provide opportunities for all interested agricultural producers to participate;

(7) a voluntary, incentive-based conservation program open to all agricultural producers that qualify and desire to participate would—

(A) encourage greater improvement of natural resources and the environment;

(B) address the economic implications of conservation practices in a manner consistent with international obligations of the United States;

(C) enable United States farmers and ranchers to produce food for a growing world population; and

(D) encourage conservation practices that provide a public benefit while not infringing on the freedom of an agricultural producer to manage agricultural operations as the agricultural producer chooses;

(8) total farm conservation planning can help producers increase profitability, enhance resource protection, and improve quality of life;

(9) on-farm practices may help deter invasive species that jeopardize native species or impair agricultural land of the United States; and

(10) a conservation program described in paragraph (7) would help achieve a better

balance between Federal payments supporting conservation on land used for agricultural production and Federal payments for the purpose of retiring agricultural land from production.

SEC. 3. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 6—CONSERVATION SECURITY PROGRAM

"SEC. 1240P. DEFINITIONS.

''In this chapter:

''(1) CONSERVATION PRACTICE.—The term 'conservation practice' means a land-based farming technique that—

''(A) requires planning, implementation, management, and maintenance; and

''(B) promotes 1 or more of the purposes described in section 1240Q(a).

''(2) CONSERVATION SECURITY CONTRACT.—The term 'conservation security contract' means a contract described in section 1240Q(e).

''(3) CONSERVATION SECURITY PLAN.—The term 'conservation security plan' means a plan described in section 1240Q(c).

''(4) CONSERVATION SECURITY PROGRAM.—The term 'conservation security program' means the program established under section 1240Q(a).

''(5) NUTRIENT MANAGEMENT.—The term 'nutrient management' means management of the quantity, source, placement, form, and timing of the land application of nutrients on land enrolled in the conservation security program and other additions to soil—

''(A) to achieve or maintain adequate soil fertility for agricultural production; and

''(B) to minimize the potential for loss of environmental quality, including soil, water, fish and wildlife habitat, and air quality impairment.

''(6) RESOURCE OF CONCERN.—The term 'resource of concern' means a conservation priority of the State and locality under section 1240Q(c)(3).

''(7) RESOURCE-CONSERVING CROP.—The term 'resource-conserving crop' means—

''(A) a perennial grass;

''(B) a legume grown for use as forage, seed for planting, or green manure;

''(C) a legume-grass mixture;

''(D) a small grain grown in combination with a grass or legume, whether interseeded or planted in succession; and

''(E) such other plantings, including trees and annual grasses, as the Secretary considers appropriate for a particular area.

''(8) RESOURCE-CONSERVING CROP ROTATION.—The term 'resource-conserving crop rotation' means a crop rotation that—

''(A) includes at least 1 resource-conserving crop;

''(B) reduces erosion;

''(C) improves soil fertility and tilth; and

''(D) interrupts pest cycles.

''(9) RESOURCE MANAGEMENT SYSTEM.—The term 'resource management system' means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of the land and water, as defined in the Natural Resource Conservation Service technical guidance handbooks.

"SEC. 1240Q. CONSERVATION SECURITY PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a conservation security program to assist owners and operators of agricultural operations to promote, as is applicable for each operation—

''(1) conservation of soil, water, energy, and other related resources;

''(2) soil quality protection and improvement;

''(3) water quality protection and improvement;

''(4) air quality protection and improvement;

''(5) soil, plant, or animal health and well-being;

''(6) diversity of flora and fauna;

''(7) on-farm conservation and regeneration of biological resources, including plant and animal germplasm;

''(8) wetland restoration, conservation, and enhancement;

''(9) wildlife habitat management, with special emphasis on species identified by the Natural Heritage Program of the State;

''(10) reduction of greenhouse gas emissions and enhancement of carbon sequestration;

''(11) systems that protect human health and safety;

''(12) environmentally sound management of invasive species; or

''(13) any similar conservation purpose (as determined by the Secretary).

''(b) ELIGIBILITY.—

''(1) ELIGIBLE OWNERS AND OPERATORS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under subsection (h)(6) for the development of conservation security contracts), an owner or operator shall—

''(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

''(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

''(2) ELIGIBLE LAND.—

''(A) IN GENERAL.—Except as provided in subparagraph (C)(iii), private agricultural land (including cropland, rangeland, grassland, and pasture land) that is entirely used as part of the agricultural operation of an owner or operator on the date of enactment of this chapter shall be eligible for enrollment in the conservation security program.

''(B) FORESTED LAND.—Private forested land shall be eligible for enrollment in the conservation security program if the forested land is integrated into the agricultural operation, including land that is used for—

''(i) alleycropping;

''(ii) forest farming;

''(iii) forest buffers;

''(iv) windbreaks;

''(v) silvopasture systems; and

''(vi) such other uses as the Secretary may determine appropriate.

''(C) EXCLUSIONS.—

''(i) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter I shall not be eligible for enrollment in the conservation security program except for land enrolled in partial field conservation practice enrollment options.

''(ii) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands preserve program established under subchapter C of chapter 1 of subtitle D shall not be eligible for enrollment in the conservation security program.

''(iii) TOLERANCE LEVEL.—The Secretary shall promulgate regulations to ensure that land shall not be eligible for enrollment in the conservation security program if the land—

''(I) is initially used for the production of an agricultural commodity after the date of enactment of this chapter; and

''(II) cannot be used for the production of an agricultural commodity without resulting in the loss of soil at a level that exceeds the soil loss tolerance level.

''(c) CONSERVATION SECURITY PLANS.—

''(1) IN GENERAL.—A conservation security plan shall—

''(A) identify the resources and designated land to be conserved under the conservation security plan;

''(B) describe the tier of conservation practices, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term;

''(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract;

''(D) meet the requirements of the highly erodible land and wetland conservation requirements of subtitles B and C; and

''(E) contain such other terms as the Secretary determines to be appropriate.

''(2) COMPREHENSIVE PLANNING.—The Secretary shall encourage owners and operators that enter into conservation security contracts—

''(A) to undertake a comprehensive examination of the opportunities for conserving natural resources and improving the profitability, environmental health, and quality of life in relation to their entire agricultural operations;

''(B) to develop a long-term strategy for implementing, monitoring, and evaluating conservation practices and environmental results in the entire agricultural operation;

''(C) to participate in other Federal, State, local, or private conservation programs;

''(D) to maintain the agricultural integrity of the land; and

''(E) to adopt innovative conservation technologies and management practices.

''(3) STATE AND LOCAL CONSERVATION PRIORITIES.—To the maximum extent practicable and in a manner consistent with the conservation security program, each conservation security plan shall address the conservation priorities of the State and locality in which the agricultural operation is located (as determined by the State conservationist in consultation with the State technical committee established under subtitle G and the local working groups of the State technical committee).

''(d) CONSERVATION PRACTICES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish 3 tiers of conservation practices that are eligible for payment under a conservation security contract.

''(B) ELIGIBLE CONSERVATION PRACTICES.—

''(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices that—

''(I) are necessary to achieve the objectives of the conservation security plan; and

''(II) primarily provide for and have as the primary purpose resource protection and environmental improvement.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In determining the eligibility of a practice described in clause (i), the Secretary shall require the lowest cost alternatives be used to fulfill the objectives of the conservation security plan.

''(II) LIMITATION.—Notwithstanding subclause (I), the adoption of innovative technologies shall, to the maximum extent practicable, not be limited.

''(2) SUSTAINABLE ECONOMIC USES.—With respect to land enrolled in the conservation security program, including all land use adjustment activities specified under Tier II, the Secretary shall permit economic uses of the land that—

''(A) maintain the agricultural nature of land;

''(B) achieve the natural resource and environmental benefits of the plan; and

''(C) are approved as part of the conservation security plan.

''(3) ON-FARM RESEARCH AND DEMONSTRATION.—With respect to land enrolled in the conservation security program that will be maintained using a Tier II or Tier III conservation practice established under paragraph (5), the Secretary may approve a conservation security plan that includes on-farm research and demonstration activities, including innovative approaches to—

''(A) total farm planning;

''(B) total resource management;

''(C) integrated farming systems;

''(D) germplasm conservation and regeneration;

''(E) greenhouse gas reduction and carbon sequestration;

''(F) agro-ecological restoration and wildlife habitat restoration;

''(G) agro-forestry;

''(H) invasive species control;

''(I) energy conservation and management; or

''(J) farm and environmental results monitoring and evaluation.

''(4) USE OF HANDBOOK AND GUIDES.—

''(A) IN GENERAL.—In determining eligible conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices and the field office technical guides of the Natural Resources Conservation Service.

''(B) CONSERVATION PRACTICE STANDARDS.—To the maximum extent practicable, the Secretary shall establish guidance standards for implementation of eligible conservation practices that shall include measurable goals for enhancing and preventing degradation of resources.

''(C) ADJUSTMENTS.—After providing notice and an opportunity for public participation, the Secretary shall make such adjustments to the National Handbook of Conservation Practices as are necessary to carry out this chapter.

''(D) PILOT TESTING.—

''(i) IN GENERAL.—Under any of the 3 tiers of conservation practices established under paragraph (5), the Secretary may approve requests by an owner or operator for pilot testing of new technologies and innovative conservation practices and systems.

''(ii) INCORPORATION INTO STANDARDS.—After evaluation by the Secretary and provision of notice and an opportunity for public participation, the Secretary may incorporate new technologies and innovative conservation practices and systems into the standards for implementation of conservation practices established under paragraph (1)(C).

''(5) TIERS.—To carry out this subsection, the Secretary shall establish the following 3 tiers of conservation practices:

''(A) TIER I.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier I conservation practices shall—

''(I) if applicable, address at least 1 resource of concern to the particular agricultural operation;

''(II) apply to the total agricultural operation or to a particular unit of the agricultural operation;

''(III) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(IV) meet applicable standards for implementation of conservation practices established under paragraph (4);

''(ii) CONSERVATION PRACTICES.—Tier I conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator, 1 or more of the following basic conservation activities:

''(I) Soil conservation, quality, and residue management.

''(II) Nutrient management.

''(III) Pest management.

''(IV) Invasive species management.

''(V) Irrigation water conservation and water quality management.

''(VI) Grazing, pasture, and rangeland management.

''(VII) Fish and wildlife habitat management, with special emphasis on species identified by the Natural Heritage Program of the State or the appropriate State agency.

''(VIII) Fish and wildlife protection and enhancement.

''(IX) Air quality management.

''(X) Energy conservation measures.

''(XI) Biological resource conservation and regeneration.

''(XII) Worker health and safety protection measures.

''(XIII) Animal welfare management.

''(XIV) Plant and animal germplasm conservation, evaluation, and development.

''(XV) Contour farming.

''(XVI) Strip cropping.

''(XVII) Cover cropping.

''(XVIII) Sediment dams.

''(XIX) Recordkeeping.

''(XX) Monitoring and evaluation.

''(XXI) Any other conservation practice that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

''(iii) TIER II PRACTICES.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier I conservation practices may include Tier II conservation practices.

''(B) TIER II.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier II conservation practices shall—

''(I) address at least 1 resource of concern as specified in the conservation security plan covering the total agricultural operation;

''(II) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(III) meet applicable resource management system criteria for the chosen resource of concern of the agricultural operation;

''(ii) CONSERVATION PRACTICES.—Tier II conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator, any of the Tier I conservation practices and 1 or more of the following land use adjustment or protection practices:

''(I) Resource-conserving crop rotations.

''(II) Controlled, rotational grazing.

''(III) Conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops.

''(IV) Partial field conservation practices (including windbreaks, grass waterways, shelter belts, filter strips, riparian buffers, wetland buffers, contour buffer strips, living snow fences, crosswind trap strips, field borders, grass terraces, wildlife corridors, and critical area planting appropriate to the agricultural operation).

''(V) Fish and wildlife habitat protection and restoration.

''(VI) Native grassland and prairie protection and restoration.

''(VII) Wetland protection and restoration.

''(VIII) Agroforestry practices and systems.

''(IX) Any other conservation practice involving modification of the use of land that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

''(C) TIER III.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier III conservation practices shall—

''(I) address all resources of concern in the total agricultural operation;

''(II) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(III) meet applicable resource management system criteria;

''(ii) CONSERVATION PRACTICES.—Tier III conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator—

''(I) appropriate Tier I and Tier II conservation practices; and

''(II) development, implementation, and maintenance of a conservation security plan that, over the term of the conservation security contract—

''(aa) integrates a full complement of conservation practices to foster environmental enhancement and the long-term sustainability of the natural resource base of an agricultural operation; and

''(bb) improves profitability and quality of life associated with the agricultural operation.

''(e) CONSERVATION SECURITY CONTRACTS.—

''(1) IN GENERAL.—On approval of a conservation security plan of an owner or operator, the Secretary shall enter into a conservation security contract with the owner or operator to enroll the land covered by the conservation security plan in the conservation security program.

''(2) TERM.—Subject to paragraphs (3) and (4)—

''(A) a conservation security contract for land enrolled in the conservation security program that will be maintained using 1 or more Tier I conservation practices shall have a term of 5 years; and

''(B) a conservation security contract for land enrolled in the conservation security program that implements a conservation security plan that meets the requirements of subparagraph (B) or (C) of subsection (d)(5) shall have a term of 5 to 10 years, at the option of the owner or operator.

''(3) MODIFICATIONS.—

''(A) OPTIONAL MODIFICATIONS.—

''(i) IN GENERAL.—An owner or operator may apply to the Secretary to modify the conservation security plan in a manner consistent with the purposes of the conservation security program.

''(ii) APPROVAL BY THE SECRETARY.—Any modification under clause (i)—

''(I) shall be approved by the Secretary; and

''(II) shall authorize the Secretary to redetermine, if necessary, the amount and timing of the payments pursuant to the conservation security contract under subsection (h)(2)(C).

''(B) OTHER MODIFICATIONS.—

''(i) IN GENERAL.—The Secretary may in writing require an owner or operator to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management,

or other aspect of the agricultural operation of the owner or operator would, without the modification, significantly interfere with achieving the purposes of the conservation security program.

''(ii) PAYMENTS.—The Secretary may adjust the amount and timing of the payment schedule under the conservation security contract to reflect any modifications required under this subparagraph.

''(iii) DEADLINE.—The Secretary may terminate a conservation security contract if a modification required under this subparagraph is not submitted to the Secretary in the form of an amended conservation security contract by the date that is 90 days after the date of receipt of the written request for the modification.

''(iv) TERMINATION.—An owner or operator that is required to modify a conservation security contract under this subparagraph may, in lieu of modifying the contract—

''(I) terminate the conservation security contract; and

''(II) retain payments received under the conservation security contract, if the owner or operator fully complied with the obligations of the owner or operator under the conservation security contract.

''(4) RENEWAL.—

''(A) IN GENERAL.—At the option of an owner or operator, the conservation security contract of the owner or operator may be renewed, for a term described in subparagraph (B), if—

''(i) the owner or operator agrees to any modification of the applicable conservation security contract that the Secretary determines to be necessary to achieve the purposes of the conservation security program;

''(ii) the Secretary determines that the owner or operator has complied with the terms and conditions of the conservation security contract, including the conservation security plan; and

''(iii) in the case of a conservation security contract for land previously enrolled at the tier I level in the conservation security program, the owner or operator shall increase the level of conservation treatment on lands enrolled in the conservation security program by—

''(I) adopting new conservation practices; or

''(II)expanding existing practices to meet the resource management systems criteria.

''(B) TERMS OF RENEWAL.—Under subparagraph (A)—

''(i) a conservation security contract for land enrolled in the conservation security program that will be maintained using a Tier I conservation practice may be renewed for 5-year terms;

''(ii) a conservation security contract for land enrolled in the conservation security program that will be maintained using a Tier II or Tier III conservation practice may be renewed for 5-year to 10-year terms, at the option of the owner or operator; and

''(iii) previous participation in the conservation security program does not bar renewal more than once.

''(f) NO VIOLATION FOR NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE OWNER OR OPERATOR.—The Secretary shall include in the conservation security contract a provision, and may modify a conservation security contract under subsection (e)(3)(B), to ensure that an owner or operator shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the owner or operator, including a disaster or related condition.

''(g) DUTIES OF OWNERS AND OPERATORS.—Under a conservation security contract, an owner or operator shall agree, during the term specified under the conservation security contract—

''(1) to implement the applicable conservation security plan approved by the Secretary;

''(2) to keep appropriate records showing the effective and timely implementation of the conservation security plan;

''(3) not to engage in any activity that would interfere with the purposes of the conservation security plan;

''(4) at the option of the Secretary, to refund all or a portion of the payments to the Secretary if the owner or operator fails to maintain a conservation practice, as specified in the conservation security contract; and

''(5) on the violation of a term or condition of the conservation security contract—

''(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

''(i) to forfeit all rights to receive payments under the conservation security contract; and

''(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the conservation security contract, including an advance payment and interest on the payments, as determined by the Secretary; or

''(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate.

''(h) DUTIES OF THE SECRETARY.—

''(1) ADVANCE PAYMENT.—At the time at which a person enters into a conservation security contract, the Secretary shall make an advance payment to the person in an amount not to exceed—

''(A) in the case of a contract to maintain Tier I conservation practices described in subsection (d)(5)(A), the greater of—

''(i) $1,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary;

''(B) in the case of a contract to maintain Tier II conservation practices described in subsection (d)(5)(B), the greater of—

''(i) $2,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary; or

''(C) in the case of a contract to maintain Tier III conservation practices described in subsection (d)(5)(C), the greater of—

''(i) $3,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary.

''(2) ANNUAL PAYMENTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (F), under a conservation security contract, the Secretary shall, in amounts and for a period of years specified in the conservation security contract and taking into account any advance payments, make an annual payment to the person in an amount not to exceed—

''(i) in the case of a contract to maintain Tier I conservation practices described in subsection (d)(5)(A), $20,000;

''(ii) in the case of a contract to maintain Tier II conservation practices described in subsection (d)(5)(B), $35,000; or

''(iii) in the case of a contract to maintain Tier III conservation practices described in subsection (d)(5)(C), $50,000.

''(B) INFLATION ADJUSTMENT.—The Secretary may periodically, including at the time at which a conservation security contract is renewed, adjust the payment and payment limitations under subparagraph (A) to reflect changes in the Prices Paid by Farmers Index.

''(C) TIME OF PAYMENT.—The Secretary shall provide payment under a conservation security contract as soon as practicable after October 1 of each calendar year.

''(D) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.—Subject to subparagraphs (A) and (F), the Secretary shall establish criteria for determining the amount of an annual payment to a person under this paragraph that—

''(i) shall be as objective and transparent as practicable; and

''(ii) shall be based on—

''(I) to the maximum extent practicable, outcome-based factors related to the natural resource and environmental benefits that result from the adoption, maintenance, and improvement in implementation of the conservation practices carried out by the person;

''(II) practice-based factors, including—

''(aa) the number of eligible practices established or maintained;

''(bb) the schedule for the conservation practices described in subsection (c)(1)(C);

''(cc) the cost of the adoption, maintenance, and improvement in implementation of conservation practices that are newly implemented under the conservation security contract;

''(dd) the extent to which compensation will ensure maintenance and improvement of conservation practices that are or have been implemented;

''(ee) the extent to which the conservation security plan meets applicable resource management system standards;

''(ff) the extent to which the conservation security plan addresses State and local conservation priorities as provided for under subsection (c)(3); and

''(gg) the extent of activities undertaken beyond what is required to comply with any applicable Federal agricultural law;

''(III) additional cost factors, including—

''(aa) the income loss or economic value forgone by the person due to land use adjustments resulting from the adoption, maintenance, and improvement of conservation practices;

''(bb) the costs associated with any on-farm research, demonstration, or pilot testing components of the conservation security plan; and

''(cc) the costs associated with monitoring and evaluating results under the conservation security plan; and

''(IV) such other factors as the Secretary determines to be appropriate to encourage participation in the conservation security program and to reward environmental stewardship.

''(E) BONUS PAYMENT.—Subject to subparagraph (A), the Secretary shall offer bonus payments based on—

''(i) participation in a watershed or regional resource conservation plan involving at least 75 percent of landowners in the targeted area; and

''(ii) the special considerations associated with an owner or operator that is a qualified beginning farmer or rancher (as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))).

''(F) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, if an owner or operator has land enrolled in another conservation program administered by the Secretary and has applied to enroll the same land in the conservation security program, the owner or operator may elect to—

''(I) convert the contract under the other conservation program to a conservation security contract, without penalty, except

that this subclause shall not apply to a long-term permanent conservation or easement; or

''(II) have each annual payment to the owner or operator under this paragraph reduced to reflect payment for practices the owner or operator receives under the other conservation program, except that the annual payment under this paragraph may include incentives for qualified practices that enhance or extend the conservation benefit achieved under the other conservation program.

''(ii) PAYMENT LIMITATIONS.—If an owner or operator has identical land enrolled in the conservation security program and 1 or more other conservation programs administered by the Secretary, the Secretary shall include all payments, other than easement or rental payments, from the conservation security program and the other conservation programs in applying the annual payment limitations under subparagraph (A).

''(iii) PAYMENT FROM NON-FEDERAL AGRICULTURAL PROGRAMS.—Payments received from a Federal program administered by the Secretary, or any State, local, or private agricultural program, shall not be considered an annual payment for purposes of the annual payment limitations under subparagraph (A).

''(G) WASTE STORAGE OR TREATMENT FACILITIES.—An annual payment to an owner or operator under this paragraph shall not be provided for the purpose of construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall issue regulations—

''(i) defining the term 'person' for the purposes of this chapter—

''(I) which regulations shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001; and

''(II) which term shall be defined so that no individual directly or indirectly may receive payments exceeding the applicable amount specified in paragraph (1) or (2);

''(ii) providing adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis; and

''(iii) prescribing such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under paragraphs (1) and (2).

''(B) PENALTIES FOR SCHEMES OR DEVICES.—

''(i) IN GENERAL.—If the Secretary determines that a person has adopted a scheme or device to evade, or that has the purpose of evading, the regulations issued under subparagraph (A), the person shall be ineligible to participate in the conservation security program for the year for which the scheme or device was adopted and each of the following 5 years.

''(ii) FRAUD.—If the Secretary determines that fraud was committed in connection with the scheme or device, the person shall be ineligible to participate in the conservation security program for the year for which the scheme or device was adopted and each of the following 10 years.

''(4) TERMINATION.—

''(A) IN GENERAL.—Subject to subsection (g), the Secretary shall allow an owner or operator to terminate the conservation security contract.

''(B) PAYMENTS.—The owner or operator may retain any or all payments received under a terminated conservation security contract if—

''(i) the owner or operator is in full compliance with the terms and conditions, including any maintenance requirements, of the conservation security contract; and

''(ii) the Secretary determines that retention of payment will not defeat the goals enumerated in the conservation security plan of the owner or operator.

''(5) TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the transfer, or change in the interest, of an owner or operator in land subject to a conservation security contract shall result in the termination of the conservation security contract.

''(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to the transferee.

''(6) TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to provide technical assistance to owners and operators for the development and implementation of conservation security contracts.

''(B) TECHNICAL ASSISTANCE PROVIDED BY PERSONS NOT EMPLOYED BY THE DEPARTMENT OF AGRICULTURE.—

''(i) IN GENERAL.—Under subparagraph (A), subject to clause (ii), technical assistance provided by qualified persons not employed by the Department of Agriculture, including farmers, ranchers, and local conservation district personnel, may include—

''(I) conservation planning;

''(II) design, installation, and certification of conservation practices;

''(III) training for producers; and

''(IV) such other activities as the Secretary determines to be appropriate.

''(ii) OUTSIDE ASSISTANCE.—

''(I) IN GENERAL.—The Secretary may contract directly with qualified persons not employed by the Department of Agriculture to provide technical assistance.

''(II) PAYMENT BY SECRETARY.—The Secretary may provide a payment or voucher to an owner or operator enrolled in the conservation security program if the owner or operator chooses to contract with qualified persons not employed by the Department of Agriculture.

''(iii) COORDINATION BY THE SECRETARY.—The Secretary shall provide overall technical coordination and leadership for the conservation security program, including final approval of all conservation security plans.

''(7) EDUCATION, OUTREACH, MONITORING, AND EVALUATION.—

''(A) IN GENERAL.—

''(i) FUNDING.—In addition to the amounts made available under paragraph (6), for each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to carry out education, outreach, monitoring, and evaluation activities in support of the conservation security program, of which not less than 50 percent of the sums shall be used for monitoring and evaluation activities.

''(ii) AMOUNT.—For each fiscal year, the amount made available under clause (i) shall be not less than 40 percent of the amount made available for technical assistance under paragraph (6) for the fiscal year.

''(B) USE OF PERSONS NOT AFFILIATED WITH DEPARTMENT OF AGRICULTURE.—

''(i) IN GENERAL.—In carrying out activities described in subparagraph (A), the Secretary may use persons not employed by the Department of Agriculture, including networks of agricultural producers operating in a small watershed, local conservation district personnel, or other appropriate local entity.

''(ii) EDUCATION, OUTREACH, AND MONITORING.—The Secretary may contract with private non-profit, community-based organizations, and educational institutions with demonstrated experience in providing education, outreach, monitoring, evaluation, or related services to agricultural producers (including owners and operators of small and medium-size farms, socially disadvantaged agricultural producers, and limited resource agricultural producers).

''(C) INCLUDED ACTIVITIES.—Activities described in subparagraph (A) may include innovative uses of computer technology and remote sensing to monitor and evaluate resource and environmental results on a local, regional, or national level.

''(8) SOCIALLY DISADVANTAGED AND LIMITED RESOURCE OWNERS AND OPERATORS.—The Secretary shall provide outreach, training, and technical assistance specifically to encourage and assist socially disadvantaged owners and operators to participate in the conservation security program.

''(9) PROGRAM EVALUATION.—The Secretary shall maintain data concerning conservation security plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under this section.

''(10) CONFIDENTIALITY.—To maintain confidentiality, the Secretary shall not release or disclose publicly the conservation security plan of an owner or operator under this chapter unless the Secretary—

''(A) obtains the authorization of the owner or operator for the release or disclosure;

''(B) releases the information in an anonymous or aggregated form; or

''(C)(i) is otherwise required by law to release or disclose the plan and;

''(ii) releases the plan in an anonymous or aggregated form.

''(11) MEDIATION AND INFORMAL HEARINGS.—If the Secretary makes a decision under this chapter that is adverse to an owner or operator, at the request of the owner or operator, the Secretary shall provide the owner or operator with mediation services or an informal hearing on the decision.

''(i) REPORTS.—Not later than 18 months after the date of enactment of this chapter and at the end of each 2-year period thereafter, the Secretary shall submit to Congress a report evaluating the results of the conservation security program, including—

''(1) an evaluation of the scope, quality, and outcomes of the conservation practices carried out under this section; and

''(2) recommendations for achieving specific and quantifiable improvements for each of the purposes specified in subsection (a).

''(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this chapter such sums as are necessary, to remain available until expended.

''(k) EXEMPTION FROM AUTOMATIC SEQUESTER.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under this chapter.''.

(b) ADMINISTRATION.—Section 1243(a) of the Food Security Act of 1985 (16 U.S.C. 3843(a)) is amended—

(1) in paragraph (1)(C), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the conservation security program established under chapter 6 of subtitle D.''.

(c) STATE TECHNICAL COMMITTEES.—Section 1262(c)(8) of the Food Security Act of 1985 (16 U.S.C. 3862(c)(8)) is amended by striking ''chapter 4'' and inserting ''chapters 4 and 6''.

SEC. 4. REGULATIONS.

The Secretary of Agriculture shall promulgate such regulations as are necessary to carry out this Act and the amendments made by this Act.

By Mr. JEFFORDS (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 933. A bill to amend the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I rise today to introduce, with Senators CLINTON, LEAHY, LIEBERMAN, and SCHUMER, the Combined Heat and Power Advancement Act of 2001. This legislation ensures that highly efficient sources of electricity, such as combined heat and power systems, are able to interconnect nationwide with the electricity grid by establishing uniform and nondiscriminatory interconnection standards. Enabling these innovative, clean, and efficient technologies to come online will reduce energy costs and help protect public health and the environment.

Last week, President bush released the National Energy Policy Development Group's comprehensive energy plan. I am pleased this plan includes recommendations related to increasing energy conservation and efficiency. Specially, the plan recommends the development of well-designed combined heat and power, CHP, systems.

I am heartened that President Bush recognizes the positive impact that CHP systems can have on our nation's energy needs. These innovative systems produce both electricity and steam from a single fuel source in a facility located near the consumer. By recovering and utilizing waste heat, these systems save fuel that would otherwise be needed to produce heat or steam in a separate unit. CHP systems can reach energy efficiency levels in excess of 80 percent. This is well above the 33 percent average for conventional electrical generation technologies. In short, the U.S. can obtain more than twice the power from the same amount of energy by widely implementing combined heat and power technologies and applications.

Unfortunately, several regulatory and policy barriers block the widespread use of these innovative technologies. The bill would ensure that CHP systems and other innovative technologies can interconnect with a local distribution utility and that the costs of such interconnections shall be just reasonable, and not unduly discriminatory.

Currently, there are roughly 50 Gigawatts, GW, of energy produced from CHP systems annually. If this barrier is removed, 50 GW of additional CHP electrical generating capacity could be brought to market by 2010. To illustrate the magnitude of potential savings to the entire nation, the result of this additional capacity is equal to all the energy needed to power Massachusetts. Most of these systems are targeted for industry, where thermal and electrical needs are most often located close together. However, there is also tremendous potential for CHP in homes. Fifty GW of CHP could light and heat 50 million homes, or 43 percent of all U.S. homes, for the same energy that the central station plans could only light the homes. With removal of regulatory barriers, these efficient systems may begin to be economical at the small sizes suitable for homes.

We cannot solve today's energy problems with yesterday's solutions. CHP represents an innovative approach to expanding energy supply by maximizing energy efficiency. These systems will encourage technological innovations, reduce energy prices, spur economic development, enhance productivity, increase employment, improve environmental quality, and advance energy security and reliability in the United States.

I invite my colleagues to join me in my efforts to promote combined heat and power by co-sponsoring this important legislation. I ask 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. 933

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 ''Combined Heat and Power Advancement Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the removal of barriers to the development and deployment of combined heat and power technologies and systems, an example of an array of innovative energy-supply and energy-efficient technologies and systems, would—

(A) encourage technological innovation;

(B) reduce energy prices;

(C) spur economic development;

(D) enhance productivity;

(E) increase employment; and

(F) improve environmental quality and energy self-sufficiency;

(2) the level of efficiency of the United States electricity-generating system has been stagnant over the past several decades;

(3) technologies and systems available as of the date of enactment of this Act, including a host of innovative onsite, distributed generation technologies, could—

(A) dramatically increase productivity;

(B) double the efficiency of the United States electricity-generating system; and

(C) reduce emissions of regulated pollutants and greenhouse gases;

(4) innovative electric technologies emit a much lower level of pollutants as compared to the average quantity of pollutants generated by United States electric generating plants as of the date of enactment of this Act;

(5) a significant proportion of the United States energy infrastructure will need to be replaced by 2010;

(6) the public interest would best be served if that infrastructure were replaced by innovative technologies that dramatically increase productivity, improve efficiency, and reduce pollution;

(7) financing and regulatory practices in effect as of the date of enactment of this Act do not recognize the environmental and economic benefits to be obtained from the avoidance of transmission and distribution losses, and the reduced load on the electricity-generating system, provided by onsite, combined heat and power production;

(8) many legal, regulatory, informational, and perceptual barriers block the development and dissemination of combined heat and power and other innovative energy technologies; and

(9) because of those barriers, United States taxpayers are not receiving the benefits of the substantial research and development investment in innovative energy technologies made by the Federal Government.

SEC. 3. PURPOSE.

The purpose of this Act is to encourage energy productivity and efficiency increases by removing barriers to the development and deployment of combined heat and power technologies and systems.

SEC. 4. INTERCONNECTION.

(a) DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraph (23) and inserting the following:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any entity (notwithstanding section 201(f)) that owns, controls, or operates an electric power transmission facility that is used for the sale of electric energy.''; and

(2) by adding at the end the following:

''(26) APPROPRIATE REGULATORY AUTHORITY.—The term 'appropriate regulatory authority' means—

''(A) the Commission;

''(B) a State commission;

''(C) a municipality; or

''(D) a cooperative that is self-regulating under State law and is not a public utility.

''(27) GENERATING FACILITY.—The term 'generating facility' means a facility that generates electric energy.

''(28) LOCAL DISTRIBUTION UTILITY.—The term 'local distribution utility' means an entity that owns, controls, or operates an electric power distribution facility that is used for the sale of electric energy.

''(29) NON-FEDERAL REGULATORY AUTHORITY.—The term 'non-Federal regulatory authority' means an appropriate regulatory authority other than the Commission.''.

(b) INTERCONNECTION TO DISTRIBUTION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

''(e) INTERCONNECTION TO DISTRIBUTION FACILITIES.—

''(1) INTERCONNECTION.—

''(A) IN GENERAL.—A local distribution utility shall interconnect a generating facility with the distribution facilities of the local distribution utility if the owner of the generating facility—

''(i) complies with the final rule promulgated under paragraph (2); and

''(ii) pays the costs of the interconnection.

''(B) COSTS.—The costs of the interconnection—

''(i) shall be just and reasonable, and not unduly discriminatory, as determined by the appropriate regulatory authority; and

''(ii) shall be comparable to the costs charged by the local distribution utility for interconnection by any similarly situated

generating facility to the distribution facilities of the local distribution utility.

''(C) APPLICABLE REQUIREMENTS.—The right of a generating facility to interconnect under subparagraph (A) does not—

''(i) relieve the generating facility or the local distribution utility of other Federal, State, or local requirements; or

''(ii) provide the generating facility with transmission or distribution service.

''(2) RULE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the Commission shall promulgate a final rule to establish reasonable and appropriate technical standards for the interconnection of a generating facility with the distribution facilities of a local distribution utility.

''(B) PROCESS.—To the extent feasible, the Commission shall develop the standards through a process involving interested parties.

''(C) ADVISORY COMMITTEE.—The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission concerning development of the standards.

''(D) ADMINISTRATION.—

''(i) BY A NON-FEDERAL REGULATORY AUTHORITY.—Except where subject to the jurisdiction of the Commission pursuant to provisions other than clause (ii), a non-Federal regulatory authority may administer and enforce the rule promulgated under subparagraph (A).

''(ii) BY THE COMMISSION.—To the extent that a non-Federal regulatory authority does not administer and enforce the rule, the Commission shall administer and enforce the rule with respect to interconnection in that jurisdiction.

''(3) RIGHT TO BACKUP POWER.—

''(A) IN GENERAL.—In accordance with subparagraph (B), a local distribution utility shall offer to sell backup power to a generating facility that has interconnected with the local distribution utility to the extent that the local distribution utility—

''(i) is not subject to an order of a non-Federal regulatory authority to provide open access to the distribution facilities of the local distribution utility;

''(ii) has not offered to provide open access to the distribution facilities of the local distribution utility; or

''(iii) does not allow a generating facility to purchase backup power from another entity using the distribution facilities of the local distribution utility.

''(B) RATES, TERMS, AND CONDITIONS.—A sale of backup power under subparagraph (A) shall be at such a rate, and under such terms and conditions, as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) NO REQUIREMENT FOR CERTAIN SALES.—A local distribution utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) NEW OR EXPANDED LOADS.—To the extent backup power is used to serve a new or expanded load on the distribution system, the generating facility shall pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide such service.''.

(c) INTERCONNECTION TO TRANSMISSION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended by inserting after subsection (e) (as added by subsection (b)) the following:

''(f) INTERCONNECTION TO TRANSMISSION FACILITIES.—

''(1) INTERCONNECTION.—

''(A) IN GENERAL.—Notwithstanding subsections (a) and (c), a transmitting utility shall interconnect a generating facility with the transmission facilities of the transmitting utility if the owner of the generating facility—

''(i) complies with the final rule promulgated under paragraph (2); and

''(ii) pays the costs of the interconnection.

''(B) COSTS.—

''(i) IN GENERAL.—Subject to clause (ii), the costs of the interconnection—

''(I) shall be just and reasonable and not unduly discriminatory; and

''(II) shall be comparable to the costs charged by the transmitting utility for interconnection by any similarly situated generating facility to the transmitting facilities of the transmitting utility.

''(ii) EFFECT OF FERC LITE.—A non-Federal regulatory authority that, under any provision of Federal law enacted before, on, or after the date of enactment of this subparagraph, is authorized to determine the rates for transmission service shall be authorized to determine the costs of any interconnection under this subparagraph in accordance with that provision of Federal law.

''(C) APPLICABLE REQUIREMENTS.—The right of a generating facility to interconnect under subparagraph (A) does not—

''(i) relieve the generating facility or the transmitting utility of other Federal, State, or local requirements; or

''(ii) provide the generating facility with transmission or distribution service.

''(2) RULE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the Commission shall promulgate a final rule to establish reasonable and appropriate technical standards for the interconnection of a generating facility with the transmission facilities of a transmitting utility.

''(B) PROCESS.—To the extent feasible, the Commission shall develop the standards through a process involving interested parties.

''(C) ADVISORY COMMITTEE.—The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission concerning development of the standards.

''(3) RIGHT TO BACKUP POWER.—

''(A) IN GENERAL.—In accordance with subparagraph (B), a transmitting utility shall offer to sell backup power to a generating facility that has interconnected with the transmitting utility unless—

''(i) Federal or State law (including regulations) allows a generating facility to purchase backup power from an entity other than the transmitting utility; or

''(ii) a transmitting utility allows a generating facility to purchase backup power from an entity other than the transmitting utility using—

''(I) the transmission facilities of the transmitting utility; and

''(II) the transmission facilities of any other transmitting utility.

''(B) RATES, TERMS, AND CONDITIONS.—A sale of backup power under subparagraph (A) shall be at such a rate, and under such terms and conditions, as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) NO REQUIREMENT FOR CERTAIN SALES.—A transmitting utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) NEW OR EXPANDED LOADS.—To the extent backup power is used to serve a new or expanded load on the transmission system, the generating facility shall pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide such service.''.

(d) CONFORMING AMENDMENTS.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

(1) in subsection (a)(1)—

(A) by inserting ''transmitting utility, local distribution utility,'' after ''electric utility,''; and

(B) in subparagraph (A), by inserting ''any transmitting utility,'' after ''small power production facility,'';

(2) in subsection (b)(2), by striking ''an evidentiary hearing'' and inserting ''a hearing'';

(3) in subsection (c)(2)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) promote competition in electricity markets, and''; and

(4) in subsection (d), by striking the last sentence.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 934. A bill to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and for other purposes; to the Committee on Indian Affairs.

Mr. BURNS. Mr. President, I am pleased today to join my colleague from Montana, Senator BAUCUS, in introducing the Rocky Boy's/North Central Montana Regional Water System Act of 2001. The purpose of this bill is to authorize a regional water delivery system which will serve both the Rocky Boy's Reservation and the surrounding region in north central Montana. For the last few years I have been working on this bill with the members of the Chippewa Cree Tribe, the citizens of the six towns affected, and the users of the eight water districts who have joined together to bring clean, safe drinking water to their families. More than 30,000 people would be serviced by this rural water system.

This bill is needed now for a number of reasons. First, it will provide a means to import water to the Rocky Boy's Reservation for drinking and for other everyday needs. Over the last decade, the population of the Rocky Boy's Reservation has grown by 40 percent, leaving existing water infrastructure insufficient. Secondly, there are

three small water systems in the region which are currently operating out of compliance with the EPA's Surface Water Treatment Rule. Others are nearing non-compliance, and one has been issued an administrative rule by the Montana Department of Environmental Quality to begin water treatment as soon as possible.

This bill helps us to realize that simply maintaining a small town or district's water system can be so expensive and filled with red tape that its users can hardly afford it. Under current law even if small systems are able to be developed, they must be continually monitored and the results reported. That may not be a problem in a larger community with a sizeable tax base and a labor pool, but in a rural setting those expenses and responsibilities are spread between so few people that it can quickly become a major problem. I know rural Montana. I can tell you our very smallest towns are hurting. They are deeply affected by a lagging agricultural economy, and the inability to provide water for any number of reasons could be enough to shut a small town down. Is that what we want? I don't think so. One of the ways we can address that problem is with the development of regional water systems, which are more efficient, and easier to manage.

I truly believe it is time to stand up and face our commitments to Indian Country and rural America head on. This bill is the perfect opportunity for that, because it uses the teamwork of committed citizens and builds on the system they have developed. This is a very good example of cooperation between tribal and non-tribal entities, and of what happens when people come to the table ready to find a solution.

This project has been a long time coming. The State of Montana committed to it in 1997 with a promise of $10 million for construction, and by providing technical assistance through the Montana Department of Environmental Quality. Initial federal assistance followed in the form of an appropriation of $300,000 for engineering and planning for fiscal year 2000. The report was completed and the preliminary engineering is complete. With the passage of the water compact settling the water rights between the Chippewa Cree Tribe and Montana, P.L. 106–163 signed by President Clinton in 1999, the stage was set for this project to be built.

All the bases have been covered and it is time to authorize this project. There is a real need for a less burdensome way to manage the water needs of the area. The Rocky Boy's Reservation is in need of an expanded water source and system, and smaller water districts and municipalities are also struggling to stay in operation. The best way to solve both these problems at once is to build an efficient regional water system. I propose we do just that and show our commitment to rural America.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 93—CONGRATULATING THE UNIVERSITY OF MINNESOTA, ITS FACULTY, STAFF, STUDENTS, ALUMNI, AND FRIENDS, FOR 150 YEARS OF OUTSTANDING SERVICE TO THE STATE OF MINNESOTA, THE NATION, AND THE WORLD

Mr. WELLSTONE (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas the University of Minnesota, the land-grant university of the State of Minnesota and a major research institution, with its 4 campuses and many outreach centers, is one of the most comprehensive and prestigious universities in the United States;

Whereas since its inception the University of Minnesota has awarded more than 537,575 degrees, including more than 24,728 Ph.D.s;

Whereas 13 faculty members and alumni have been awarded Nobel Prizes, including the Nobel Peace Prize;

Whereas the faculty, staff, and students of the University of Minnesota have made a significant impact on the lives of people throughout the world through accomplishments that include—

(1) establishing the leading kidney transplant center in the world;

(2) developing more than 80 new crop varieties that greatly increase food production around the world;

(3) developing the taconite process;

(4) inventing the flight recorder (commonly known as the black box) and the retractable seat belt;

(5) eradicating many poultry and livestock diseases;

(6) inventing the heart-lung machine used during the first open-heart surgery in the world;

(7) isolating uranium-235 in a prototype mass spectrometer;

(8) inventing the heart pacemaker; and

(9) developing the Minnesota Multiphasic Personality Inventory (MMPI);

Whereas the University of Minnesota conducts more than 300 different programs serving children and youth;

Whereas the University Extension Service has contact with 700,000 Minnesota residents every year in areas ranging from crop management to effective parenting;

Whereas the University of Minnesota makes significant contributions to the artistic and cultural richness of the region through its faculty, students, and curriculum as well as its galleries, museums, concerts, dance theater, theater productions, lectures, and films;

Whereas the University of Minnesota library system is the 17th largest in North America;

Whereas the alumni of the University of Minnesota, including 370,000 living alumni, have played a major role in building the economic health and vitality of Minnesota; and

Whereas the alumni of the University of Minnesota have created more than 1,500 technology companies that employ more than 100,000 Minnesotans and add $30,000,000,000 to the annual economy of the State: Now, therefore, be it

Resolved, That the Senate congratulates the University of Minnesota and its faculty, staff, students, alumni, and friends for a tradition of outstanding teaching, research, and service to Minnesota, the Nation, and the world on the occasion of the 150th anniversary of the founding of the University of Minnesota.

SENATE CONCURRENT RESOLUTION 41—AUTHORIZING THE USE OF THE CAPITOL GROUNDS FOR THE NATIONAL BOOK FESTIVAL

Mr. STEVENS submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. AUTHORIZATION OF USE OF CAPITOL GROUNDS FOR NATIONAL BOOK FESTIVAL.

(a) IN GENERAL.—The Library of Congress (in this resolution referred to as the 'sponsor'), in cooperation with the First Lady, may sponsor the National Book Festival (in this resolution referred to as the 'event') on the Capitol Grounds.

(b) DATE OF EVENT.—The event shall be held on September 8, 2001, or on such other date as the Senate Committee on Rules and Administration and the Speaker of the House of Representatives jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event authorized under section 1 shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the sponsor may cause to be placed on the Capitol Grounds such stage, seating, booths, sound amplification and video devices, and other related structures and equipment as may be required for the event, including equipment for the broadcast of the event over radio, television, and other media outlets.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board may make any additional arrangements as may be required to carry out the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, advertisements, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds in connection with the event.

AMENDMENTS SUBMITTED AND PROPOSED

SA 763. Mr. GRAHAM (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table.

SA 764. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table.

SA 765. Mr. REID (for himself, Mr. DORGAN, Mr. GRAHAM, Ms. STABENOW, and Ms. CANTWELL) submitted an amendment intended to