

Albuquerque, New Mexico, metropolitan area.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. RES. 121

At the request of Mr. KERRY, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD:

S. 1224. A bill to amend title XVIII of the Social Security Act to extend the availability of Medicare cost contracts for 10 years; to the Committee on Finance.

Mr. ALLARD. Mr. President, I am pleased to introduce the Medicare Cost Contract Extension Act of 2001.

For decades, the Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration), has successfully offered health insurance providers two contracts to choose from: a Medicare risk contract, (Medicare+Choice), and Medicare cost contract. In an effort to expand and refine the Medicare+Choice program, the Balanced Budget Act of 1997 terminated the Medicare cost contract program effective December 31, 2002. To prevent this termination, in 1999 Congress passed the Balanced Budget and Refinement Act, which extended cost contracts for two years through 2004.

I am pleased that Congress passed into law this two-year extension of Medicare cost contracting. This extension will help Medicare beneficiaries in rural communities in the United States keep the quality health care they currently receive under their cost contract plans.

Congress should work to extend further Medicare cost contracts. The Medicare Cost Contract Extension Act of 2001 would accomplish this by extending by ten years the cost contract sunset date of December 31, 2004 to December 31, 2014.

Currently 298,683 Americans, and 18,050 Coloradans receive health care through Medicare cost contracts. Of the 18,050 Coloradans with cost contract plans, 16,075 (89 percent) of them live in rural Colorado, where few Medicare and Medicare+Choice providers operate. If Medicare cost contracts are eliminated, essentially two health care options for Medicare beneficiaries

would remain: traditional Medicare fee-for-service, which can include Medigap, and Medicare+Choice. If Medicare cost contracts are eliminated, as scheduled in 2004, then thousands of seniors will be forced into these other Medicare programs.

Basic Medicare and Medicare+Choice providers, however, are few in rural Colorado, where health care demands are great. In addition to the fact that 89 percent of Colorado's seniors with cost contract plans live in rural areas, 6,358, 35 percent, of Colorado Medicare managed care beneficiaries live in counties in which Medicare+Choice is not even available. Further, cost contract plans are more widely used across the State than are Medicare+Choice plans: Medicare+Choice is the Medicare option of beneficiaries in only 20 of Colorado's 64 counties, while Medicare cost contracts are enjoyed by seniors in 46 counties in Colorado.

In addition to accessibility, basic Medicare has fewer benefits than cost contract plans, and Medigap has higher out-of-pocket expenses than cost contract plans. Cost contract plans often provide more benefits than Medigap, such as preventive care and prescription drug benefits, and Medicare Part B deductible coverage. In addition, some cost contract plans offer one rate for older Medicare beneficiaries, while Medigap plans charge higher premiums for beneficiaries who are older.

Further, beneficiaries under Medicare cost contracts value the services cost contracting companies offer. According to a 1999 U.S. Department of Health and Human Services study, the Medicare Managed Care Consumer Assessment of Health Plans Study, CAHPS, Medicare beneficiaries gave Medicare cost contract health insurers higher ratings than non-cost contract providers. Beneficiaries noted cost contracting HMOs solved problems, provided care, and provided customer service better than the majority of non-cost contracting providers. These ratings demonstrate that cost contract insurers provide the quality service seniors want and the health benefits they need.

While the goal of the Balanced Budget Act of 1997 was to provide an alternative to basic Medicare through Medicare+Choice, Medicare+Choice has not accomplished this goal in rural America. One of the objectives of President Bush and Tommy Thompson, the Secretary of Health and Human Services, is to increase in the near future Medicare+Choice enrollment. I support and have confidence in this effort. Until Medicare+Choice coverage is readily available to rural cost contract recipients Congress should extend the current cost contract sunset for an additional ten years.

Medicare beneficiaries deserve a choice in how they receive their health care. Congress should allow one of these choices to remain Medicare cost contracts. On behalf of the 298,683 U.S. and 18,050 Colorado Medicare bene-

ficiaries who obtain their health care from cost contract plans, I urge my colleagues to extend Medicare cost contract plans for ten years.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 1225. A bill to require the Secretary of the Treasury to redesign the \$1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of the Articles of the Constitution on the reverse side of such currency; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ALLEN. Mr. President, I rise today to introduce the Liberty Bill Act, which directs the United States Treasury to print an abridged Constitution with the titles of salient articles and amendments of the Constitution of the United States on the back of our one dollar bill. Indeed, the redesign of a Ten, Twenty, Fifty or 100 dollar bill could incorporate this goal.

This important and innovative legislation is designed to educate, encourage and promote the understanding of the fundamental principles, the concept of self-government, free will and the protection of individual rights, of the United States for all Americans and people around the world who may use U.S. currency.

I believe that it is most fitting that the idea for the Liberty Bill Act began in a classroom in Liberty Middle School, in Ashland VA, and carried forth by students at Patrick Henry High School in Hanover County, VA, by students who wanted to do something good for this country and its democratic principles.

A little more than three years ago at Virginia's Poor Farm Park's amphitheatre, 170 students, representing Liberty Middle School, recited the abridged Constitution as part of a school project. The so-called Liberty Bill project left them with a deeper appreciation of the Constitution and how important it is that we, as Americans, fully understand our heritage and the principles of freedom, justice and liberty. And, fortunately for the rest of us, the Liberty Bill project also left them with the desire to communicate this appreciation to all Americans and to all people worldwide.

I am proud to say that these students did not simply stop their education at this juncture. Instead, they worked with their teacher, Mr. Randy Wright, to create a proposal that would serve as a reminder of our rights and responsibilities as citizens of the United States.

After careful thought and consideration, the students decided that putting the thoughts of our Constitution on the back of the dollar bill, something that passes through the hands of millions of people around the world every day, would serve as the powerful reminder of how important the Constitution is to our representative democracy.

In addition, the newly revised dollar bill would teach the progress of American history, highlighting amendments that were added to the Constitution as our nation evolved into the free and prosperous global leader it is today. For example, despite a strong belief in what some termed the "inherent and unalienable rights of man," the fledgling American government did not protect the individual rights and liberties of all Americans. In fact, it was not until 1865, upon the adoption of amendment XIII, slavery was abolished and all races were guaranteed their freedom under the law.

In addition, the right to vote and have a say in one's government and the policies that affect everyday life, was not extended to all Americans. In fact, only white men could vote until amendment XV, proclaimed in 1870, provided that all men could vote, regardless of their race or status as a former slave. Later, in 1920, amendment XIX rightfully extended suffrage to all of America's people, securing the right of women to have a voice in our government as well. For a representative democracy is not truly representative until all people are heard.

Referencing constitutional amendments, such as amendments XIII, XV, and XIX on our dollar bill, would help to highlight not only the adaptive qualities of our Constitution and its ability to reflect an increasingly enlightened awareness of the rights of all people, but teach us to appreciate and value these freedoms and rights as Americans.

The Constitution of the United States is one of the most important documents in all of history. Yet in this day and age many Americans do not even know all the rights and protections enshrined in the first ten amendments, our Bill of Rights. Many Americans fail to recognize the Constitution as framework of the United States government and its impact on our government and prosperity as a nation of free people.

The dollar bill is the most used and most recognized currency in the world, every day it pass through the hands of millions of people around the world. And, as the students of Liberty Middle School asked themselves three years ago: "What better way than to highlight the Constitution and promote the ideals and values it represents than putting the principles it embodies on the back of the dollar bill?"

Every day I come across adults who complain that they are powerless to affect our political process or laws. They claim that even their vote will not make a difference.

Yet, a group of middle school students, through their commitment and determination, have persevered.

In just three years these students have taken up the challenge to help ensure every American understands the basic precepts of our treasured Constitution. This group of students developed a plan to reach this goal. They

have gained media coverage and the endorsement of editorialists nationwide and their local governments, receiving acclaim from such notables as the Wall Street Journal and CNN News, although, I have to believe that one of the most notable endorsements of all was from a middle school student named Jessie, who said of the Liberty Bill project: "A fantastic learning experience, the Liberty Bill has inspired me to pursue politics like never before."

Because of their work and dedication, the impact of the Liberty Bill project on the education of our students can be felt nationwide. A remarkable 21 schools, representing seven states, have also joined their effort, ranging from Bedwell Elementary School in New Jersey and Festus High School in Festus, MO, to Dickinson High School in North Dakota and Newcastle Middle School in Wyoming.

The students have taken their effort all the way to Capitol Hill. The Liberty Bill Act, H.R. 903, introduced in the 106th Congress eventually secured 107 cosponsors and was supported by leadership on both sides of the aisle, including Speaker HASTERT, Majority Leader ARMEY, Majority Whip DELAY, and Minority Leader GEPHARDT. In addition, eight Committee Chairmen and 3 Ranking Members endorsed the Liberty Bill proposal. I am confident that under the guidance of Congressman CANTOR, the Liberty Bill will enjoy even more success during the 107th Congress in the House of Representatives and I am looking forward to working with my colleagues to secure the Liberty Bill's success in the Senate.

Last February, I had the opportunity to attend a Liberty Bill Project presentation performed by students from the Patrick Henry High School of Ashland, VA. I cannot tell you how encouraging it is to see a group of young people who really get, who realize how important a full understanding of our Constitution is and the values it represents. Not only was this presentation one of the most wholesome and inspirational I have seen, it convinced me that the Liberty Bill Project is an exemplary way of capturing our imagination and providing a major contribution toward our understanding of our Constitution, history, and form of government.

Therefore, it is my privilege to stand here today, joining my colleague in the House of Representatives, Congressman ERIC CANTOR, and introduce the companion legislation in the Senate. I am proud to act as a representative for the hard work and dedication of our students and support their efforts to teach all Americans about the importance of the values and principles embodied by our Constitution.

Finally, I would like to take this opportunity to commend the fine efforts of the students of Liberty Middle School and their teacher, Mr. Randy Wright. Their success is a lesson to all of us, demonstrating that with initia-

tive and hard work we can easily, positively educate Americans.

Thomas Jefferson once said, "If a Nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be." This remarkable group of young people has shown all of us what can be accomplished through dedication, creativity and a desire to do what has not been done before.

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. 1225

*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 "Liberty Dollar Bill Act".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) many Americans are unaware of the provisions of the Constitution of the United States, one of the most remarkable and important documents in world history;

(2) a version of this important document, consisting of the preamble, a list of the Articles, and the Bill of Rights, could easily be placed on the reverse side of the \$1 Federal reserve note;

(3) the placement of this version of the Constitution on the \$1 Federal reserve note, a unit of currency used daily by virtually all Americans, would serve to remind people of the historical importance of the Constitution and its impact on their lives today; and

(4) Americans would be reminded by the preamble of the blessings of liberty, by the Articles, of the framework of the Government, and by the Bill of Rights, of some of the historical changes to the document that forms the very core of the American experience.

#### SEC. 3. REDESIGN OF REVERSE SIDE OF THE BILL.

(a) IN GENERAL.—Section 5114 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) LIBERTY DOLLAR BILLS.—

"(1) IN GENERAL.—In addition to the requirements of subsection (b) (relating to the inclusion of the inscription 'In God We Trust' on all United States currency) and the eighth undesignated paragraph of section 16 of the Federal Reserve Act, the design of the reverse side of the \$1 Federal reserve notes shall incorporate the preamble to the Constitution of the United States, a list of the Articles of the Constitution, and a list of the first 10 amendments to the Constitution.

"(2) DESIGN.—Subject to paragraph (3), the preamble of the Constitution of the United States, the list of the Articles of the Constitution, and the first 10 amendments to the Constitution shall appear on the reverse side of the \$1 Federal reserve note, in such form as the Secretary deems appropriate.

"(3) AUTHORITY OF SECRETARY.—The requirements of this subsection shall not be construed as—

"(A) prohibiting the inclusion of any other inscriptions or material on the reverse side of the \$1 Federal reserve note that the Secretary may determine to be necessary or appropriate; or

"(B) limiting any other authority of the Secretary with regard to the design of the \$1 Federal reserve note, including the adoption of any design features to deter the counterfeiting of United States currency."

(b) DATE OF APPLICATION.—The amendment made by subsection (a) shall apply to \$1 Federal reserve notes that are first placed into circulation after December 31, 2001.

Mr. WARNER. Mr. President, I am deferring to my junior colleague from Virginia and am pleased to be an original cosponsor of legislation introduced by Senator ALLEN to place actual language from the Constitution on the back of the one dollar bill.

This legislation is related to a bill I introduced last year based on the idea of students at Liberty Middle School in Ashland, Va. Working with their teacher, Randy Wright, this began as a school project several years ago. I commend these students and Mr. Wright for their continued dedication on seeing this idea realized.

If you would think for a minute about the circulation of one dollar, it is fascinating to imagine how many people this message will reach, just how many hands a dollar will pass through even in just one year. Moreover, I believe this initiative exemplifies many of the principles laid out in the Constitution and the people's role in our government.

The Constitution is our Nation's most noble achievement. It embodies the freedoms and liberties we enjoy as Americans, and gives value and meaning to the laws by which we live. I agree with the students of Liberty Middle School that the Constitution belongs to the people. It should be in their hands.

I am pleased to support this important initiative.

By Mr. CAMPBELL:

S. 1226. A bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, today I introduce the POW/MIA Memorial Flag Act of 2001. I am pleased to be joined by my friend and colleague Senator ALLARD as an original co-sponsor.

I want to begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who served in the Armed Forces of our Nation.

Many of us have visited one or more of the military academies that train America's future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular branch of service. On the grounds of each academy is a chapel, spectacular places that are easily identifiable as places of worship.

In each chapel, a place has been reserved for those prisoners of war and the missing in action from each particular service. A pew has been set aside and marked by a candle, a powerful symbol that not all have returned from battle. These hallowed places have been set aside so that all POW's

and MIA's are remembered with dignity and honor. It is a moving and emotional experience to pause at these reserved pews, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors, marines, and pilots and to be inspired today by what they have done.

Yes, I believe we can and should do more to honor the memory of all the POW's and MIA's who have so gallantly served our nation.

Therefore, today I am introducing the POW/MIA Memorial Flag Act of 2001. This act would require the display of the POW/MIA flag at the World War II Memorial, the Korea War Veterans Memorial, and the Vietnam Veterans Memorial, all here in the Nation's Capitol, on any day on which the United States flag is displayed.

Congress has officially recognized the POW/MIA flag. Displaying this flag would be a powerful symbol to all Americans that we have not forgotten, and will not forget.

As my colleagues well know, the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th century wars alone, more than 147,000 Americans were captured and became prisoners of war; of that number more than 15,000 died while in captivity. When we add to the number those who are still missing in action, we realize that more can be done to honor their commitment to duty, honor, and country.

The display of the POW/MIA flag would be a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, as they remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can do. Let us now demonstrate our indebtedness and gratitude for those who served that we might live in freedom.

Just as those special reserved pews in the chapels of the military academies recall the spirit and presence of our POW's and MIA's, so too will the display of their flag over the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial be a special reminder that we have not forgotten, and will not forget. This coming September 21, 2001, is National POW/MIA Recognition Day. I invite my Senate colleagues to please join me in passing this bill by then to display the POW/MIA flag on this special day.

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. 1226

*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 "POW/MIA Memorial Flag Act of 2001".

#### SEC. 2. DISPLAY OF POW/MIA FLAG AT WORLD WAR II MEMORIAL, KOREAN WAR MEMORIAL, AND VIETNAM VETERANS MEMORIAL.

(a) REQUIREMENT FOR DISPLAY.—Subsection (d)(3) of section 902 of title 36, United States Code, is amended by striking "The Korean War Veterans Memorial and the Vietnam Veterans Memorial" and inserting "The World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial".

(b) DAYS FOR DISPLAY.—Subsection (c)(2) of that section is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) in the case of display at the World War II memorial, Korean War Veterans Memorial, and Vietnam Veterans Memorial (required by subsection (d)(3) of this section), any day on which the United States flag is displayed;"

(c) DISPLAY ON EXISTING FLAGPOLE.—No element of the United States Government may construe the amendments made by this section as requiring the acquisition or erection of a new or additional flagpole for purposes of the display of the POW/MIA flag.

By Mr. THURMOND (for himself and Mr. HATCH):

S. 1228. A bill to amend title 18, United States Code, to authorize pilot projects under which private companies in the United States may use Federal inmate labor to produce items that would otherwise be produced by foreign labor, to revise the authorities and operations of Federal Prison Industries, and for other purposes; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, I rise today to introduce legislation that would comprehensively reform Federal Prison Industries or UNICOR. It would eliminate the preference that Prison Industries currently has to make products for the Federal Government, while for the first time allowing private companies to partner with FPI for inmate labor. These changes would benefit all interested parties without endangering this essential inmate work program. I am pleased to have Senator HATCH as an original cosponsor for this important bill.

FPI is a self-sufficient government corporation that provides work for over 20,000 inmates in the Federal Bureau of Prisons. This program is critical to keeping inmates productively occupied, which helps keep prisons safe for staff, inmates, and the public. At the same time, inmates learn important job skills that they can use when they return to society. FPI has been proven to be the best prison program in helping prevent inmates from returning to a life of crime. It does all of this without costing any taxpayer money.

Prison Industries is an especially critical program today as the inmate

population continues to grow dramatically. The number of Federal prisoners has doubled since 1989, and is continuing to grow every year. For the Bureau of Prisons to maintain just 25 percent of the work-eligible inmates in FPI, it must produce more and more products to keep its growing population working and occupied.

Since it was created in 1934, Prison Industries has had the authority to sell products only to Federal agencies and not to the private sector. In return, Federal agencies generally must purchase items that FPI makes, if it can provide them on time and at competitive prices. This is known as the mandatory source requirement.

The equity of mandatory source has been debated for years. I believe that we should resolve this issue once and for all in this Congress by eliminating this governmental preference. However, we should do so in a way that will maintain, not destroy, this successful work program.

The preference that FPI currently has regarding the Federal market is essential as long as Prison Industries is only permitted to sell products to Federal agencies. However, Prison Industries can do much more and actually be a partner with the private sector if it has the opportunity. Thus, this bill would eliminate the mandatory source requirement, and it would allow private businesses to contract with FPI for inmates to make the company's products in the commercial market, both domestically and overseas.

One of the most promising areas for prison labor today is overseas markets where American companies simply cannot compete today. Economists, including respected labor expert Professor Richard Freeman, have argued that one of the best uses of prison labor is to produce goods that are not made in the United States, such as toys. This could help the American economy by bringing jobs back that we have lost. Of course, if prisoners make products that are not made in the United States, they are not displacing American workers. However, jobs would not only be created in prisons but also in the private sector. Private companies would provide raw materials, transport goods, and otherwise supplement the prison labor. This is a creative way to bring back industries whose entire economic support structure is overseas.

Also, this could prove to help FPI reduce its need to make the type of products that it makes today while keeping inmates just as busy. It would also make the work experience for the inmates even more practical if they were making products for the private companies. Thus, the legislation would permit private companies to contract with FPI to provide the labor to make products that are otherwise being made by foreign labor outside the United States, and pay the inmates at the current prison industry wages.

We must keep in mind that FPI has hidden burdens that increase its labor

costs. Inmates are significantly less productive than private workers for various reasons including limited skills, less education, and the security needs at prisoner work areas. Nevertheless, under this legislation, when FPI contracted with private companies domestically, it would pay inmates the same as private employees who do the same type of work in the area. These "comparable locality wages" are identical to the wages that state prison industry work programs provide today. As under state prison work programs, the pay could never be below the Federal minimum wage.

The additional money that inmates would earn under these new higher wages would be used to help pay debts that the inmate owes to society, such as more restitution to victims and child support obligations. Also, if funds were available, inmates would reimburse the government for a portion of their room and board costs.

Further, the bill would increase the size of the Prison Industries Board of Directors to provide greater representation, including members recommended by the Senate and House leadership. Also, decisions about whether a product is otherwise being made by foreign workers outside the United States would be determined by an independent panel, separate from the Prison Industries Board. This panel would consist of representatives of the Departments of Commerce and Labor, as well as labor unions and the business community.

The cornerstone of the legislation is that the mandatory source requirement would be eliminated, which is a change that has long been sought by certain business and labor interests. The bill would phase it out over five years to permit a smooth transition and prevent any major disruptions in inmate labor programs. However, during this period, FPI would be prohibited from expanding beyond its current mandatory source levels in any existing federal market.

I believe that this bill represents comprehensive, fundamental reform of Prison Industries. It would not be an easy task for Prison Industries to transform its market, as this bill would require. However, I think this legislation constitutes a fair and equitable compromise for this longstanding issue. It eliminates the mandatory source once and for all. At the same time, it creates new markets for prison labor, especially overseas markets where America simply cannot compete today.

It is time that we took an entirely new approach toward the issue of prison labor. We have the opportunity to move Prison Industries into the new century as a new, dynamic partner with the private sector. I encourage my colleagues to join me and Senator HATCH in supporting this bold reform initiative.

I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

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

S. 1228

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Inmate Work Act of 2001".

#### SEC. 2. AUTHORITY TO CARRY OUT PILOT PROJECTS USING FEDERAL INMATE LABOR TO REPLACE FOREIGN LABOR.

(a) FOREIGN LABOR SUBSTITUTE PILOT PROJECTS AUTHORIZED.—Chapter 85 of title 18, United States Code, is amended in section 1761—

(1) in subsection (b), by striking "This chapter" and inserting "This section";

(2) in subsection (c), by striking "this chapter" and inserting "this section";

(3) by redesignating subsection (d) as subsection (f); and

(4) by adding after subsection (c) the following new subsections:

"(d) This section shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who are participating in industrial operations of Federal Prison Industries.

"(e) This section shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who are participating in any pilot project approved as a foreign labor substitute by the Foreign Labor Substitute Panel established under section 1762."

(b) FOREIGN LABOR SUBSTITUTE PANEL.—(1) Section 1762 of such chapter is amended to read as follows:

#### "§ 1762. Foreign Labor Substitute Panel

"(a) The Attorney General shall establish a panel to be known as the Foreign Labor Substitute Panel (in this section referred to as the 'Panel').

"(b) The Panel shall be composed of eight members, each of whom shall serve at the pleasure of the Attorney General, and who shall be appointed by the Attorney General as follows:

"(1) One member who shall be an officer, employee, or other representative of the Department of Commerce.

"(2) One member who shall be an officer, employee, or other representative of the Department of Labor.

"(3) One member who shall be an officer, employee, or other representative of the International Trade Commission.

"(4) One member who shall be an officer, employee, or other representative of the Small Business Administration.

"(5) Two members, each of whom shall be an officer, employee, or other representative of the business community.

"(6) Two members, each of whom shall be an officer, employee, or other representative of organized labor.

"(c)(1) Members of the Panel shall not receive pay, allowances, or benefits by reason of their service on the Panel.

"(2) Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(d) The Panel shall review proposals for pilot projects submitted to the Panel. For each proposal reviewed, the Panel shall approve the pilot project as a foreign labor substitute if, and only if, the Panel determines that the pilot project specified in the proposal satisfies each of the following requirements:

"(1) The pilot project is to be carried out by one or more private United States companies.

“(2) The goods, wares, or merchandise proposed to be manufactured, produced, or mined wholly or in part by Federal convicts or prisoners under the pilot project would otherwise be manufactured, produced, or mined by foreign labor.

“(e) Any determination of the Panel under subsection (d) shall be made available to the public upon request.”

(2) In the table of sections at the beginning of such chapter, the item relating to section 1762 is amended to read as follows:

“1762. Foreign Labor Substitute Panel.”

### SEC. 3. RESTATEMENT AND IMPROVEMENT OF FEDERAL PRISON INDUSTRIES PROGRAM.

(a) IN GENERAL.—Sections 4121, 4122, and 4123 of title 18, United States Code, are amended to read as follows:

#### “§4121. Federal Prison Industries: status, mission, and management

“(a) STATUS.—Federal Prison Industries is a Government corporation. The headquarters of the corporation is in the District of Columbia.

“(b) MISSION.—The mission of Federal Prison Industries is to carry out industrial operations in accordance with this chapter using eligible inmate workers.

“(c) BOARD OF DIRECTORS.—

“(1) COMPOSITION.—Federal Prison Industries is administered by a board of directors composed of 12 members appointed by the Attorney General as follows:

“(A) One member appointed from among individuals recommended by the Speaker of the House of Representatives.

“(B) One member appointed from among individuals recommended by the minority leader of the House of Representatives.

“(C) One member appointed from among individuals recommended by the majority leader of the Senate.

“(D) One member appointed from among individuals recommended by the minority leader of the Senate.

“(E) Two members who shall be representatives of the business community.

“(F) Two members who shall be representatives of organized labor.

“(G) One member who shall be representative of victims of crime.

“(H) One member who shall be representative of the prisoner rehabilitation community.

“(I) Two members whose background or expertise the Attorney General considers appropriate.

“(2) TERMS.—

“(A) Except as provided in this paragraph, each member shall be appointed for a term of four years.

“(B) As designated by the Attorney General at the time of appointment, of the members first appointed—

“(i) 3 members shall be appointed for terms of 1 year;

“(ii) 3 members shall be appointed for terms of 2 years;

“(iii) 3 members shall be appointed for terms of 3 years; and

“(iv) 3 members shall be appointed for terms of 4 years.

“(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

“(3) COMPENSATION.—A member of the Board may not receive pay, allowances, or benefits by reason of his or her service on the Board.

“(4) QUORUM.—Seven members of the Board constitutes a quorum but a lesser number may hold hearings.

“(5) CHAIR.—The Chair of the Board is elected by the members.

#### “§4122. Federal Prison Industries: operating objectives, standards, and requirements

“(a) OPERATING OBJECTIVES.—Federal Prison Industries shall carry out its industrial operations so as to achieve each of the following objectives:

“(1) To increase public safety by reducing the rate of recidivism by providing as many inmates as possible with an opportunity to gain meaningful employment and vocational skills and improve their chances of becoming productive and law-abiding citizens after release from prison.

“(2) To minimize any adverse effects of the operations on domestic companies or workers.

“(3) To provide meaningful employment and vocational training for not less than 25 percent of eligible inmate workers.

“(4) To provide inmate workers with a source of income with which they may facilitate their ability to contribute to the discharge of their financial obligations.

“(5) To generate sufficient revenue to fund those operations.

“(6) To provide products and services that are market quality and competitively priced.

“(b) PERFORMANCE STANDARDS.—Federal Prison Industries shall carry out its industrial operations in compliance with the following standards, as applicable to correctional industry programs:

“(1) United Nations standards.

“(2) International Labor Organization conventions to which the United States is a signatory party.

“(3) Federal standards.

“(4) American Correctional Association standards.

“(c) VOLUNTARINESS.—Federal Prison Industries shall carry out its industrial operations only with inmate workers who participate in those operations voluntarily.

“(d) WAGE RATES.—Unless otherwise provided by law, each inmate worker participating in the industrial operations of Federal Prison Industries shall be paid at a wage rate prescribed by the Board of Directors of Federal Prison Industries.

“(e) PROTECTION OF CERTAIN INFORMATION.—Federal Prison Industries shall carry out its industrial operations so as to ensure that, in the production of a product or the performance of a service, inmate workers do not have access to—

“(1) personal or financial information about any citizen of the United States without prior notice of the access being provided to that citizen, including information relating to the citizen's real property, however described, unless that information is publicly available; or

“(2) information that is classified in the national security or foreign policy interests of the United States.

“(f) VOCATIONAL TRAINING.—At the end of each fiscal year, Federal Prison Industries shall, if the Board of Directors determines that it is financially feasible to do so, contribute not less than 20 percent of its net profits for that fiscal year to provide for the vocational training of inmates without regard to their industrial or other assignments.

“(g) EXEMPTION FROM PUBLIC CONTRACTING AND PROCUREMENT LAWS.—Federal Prison Industries is exempt from all laws and regulations governing public contracting and the procurement of property or services by an agency of the Federal Government.

“(h) LIABILITY.—The sole remedy for injury, death, or loss resulting from negligence

in the design or production of a product, or in the performance of a service, by Federal Prison Industries shall be as follows:

“(1) In the case of a person suffering an injury, death, or loss in the performance of duties as an employee of the United States, chapter 81 of title 5, relating to compensation for work-related injuries.

“(2) In all other cases, chapter 171 of title 28, relating to tort claims.

“(i) DEDUCTIONS FROM WAGES.—

“(1) IN GENERAL.—Subject to the other provisions of this subsection, the Board of Directors may deduct and withhold amounts from the wages paid to a Federal Prison Industries inmate worker and disburse those amounts for the following:

“(A) Payment of fines, special assessments, restitution to the victim, and any other restitution owed by the inmate worker pursuant to court order.

“(B) Allocations for support of the inmate worker's family under law, court order, or agreement by the inmate worker.

“(C) Reasonable charges for costs of incarceration, as determined by the Board of Directors.

“(D) Contributions to any fund established by law to compensate the victims of crime.

“(E) Amounts to be held on account and paid to the inmate worker upon release from the custody of the Bureau of Prisons.

“(2) LIMITATION.—The total of all amounts deducted and withheld from the pay of an inmate worker for a pay period may not exceed—

“(A) 80 percent of gross pay, in the case of an inmate worker specified in section 4123(d)(2); or

“(B) 50 percent of gross pay, in the case of any other inmate worker.

“(3) EXCEPTION.—The total specified in paragraph (2) may, with the consent of an inmate worker, exceed the limitation in paragraph (2)(A) or (2)(B), as applicable, if the amounts in excess of such limitation are for the purposes described in subparagraphs (B) or (E) of paragraph (1).

“(4) AGREEMENT OF INMATE WORKER REQUIRED.—Amounts may not be deducted, withheld, or disbursed under this subsection unless the inmate worker concerned has agreed in advance to the deduction, withholding, or disbursement of those amounts.

#### “§4123. Federal Prison Industries: transactions authorized

“(a) SALES TO AGENCIES AND NOT-FOR-PROFITS.—Federal Prison Industries may sell products and services to government agencies and not-for-profit organizations.

“(b) SALES OF CERTAIN COMMODITIES.—Federal Prison Industries may carry out a program to manufacture commodities specified in section 1761(b).

“(c) PARTICIPATION IN FOREIGN LABOR SUBSTITUTE PILOT PROJECTS.—Subject to the requirements in subsection (e), Federal Prison Industries may make available inmate workers for participation in a pilot project approved as a foreign labor substitute by the Foreign Labor Substitute Panel, as referred to in section 1761(e).

“(d) PARTICIPATION IN BJA PILOT PROJECTS.—

“(1) IN GENERAL.—Subject to the requirements in subsection (e), Federal Prison Industries may make available inmate workers for participation in a pilot project designated by the Director of the Bureau of Justice Assistance, as referred to in section 1761(c).

“(2) WAGE RATE.—Each inmate worker participating in a pilot project specified in paragraph (1) shall be paid at a wage rate that complies with section 1761(c).

“(e) REQUIREMENTS FOR CONTRACTS WITH PRIVATE COMPANIES.—In making available

inmate workers for participation in a pilot project under subsection (c) or (d), Federal Prison Industries shall comply with the following requirements:

“(1) The inmate workers shall be made available through a contract between Federal Prison Industries and a private United States company.

“(2) The contract shall—

“(A) require that the labor performed by the inmate workers shall be carried out at a Federal Prison Industries facility;

“(B) include a clause that prohibits the company from displacing any of that company's existing domestic workers as a direct result of the contract with Federal Prison Industries; and

“(C) provide that any workforce reductions carried out by the company affecting employees performing work comparable to the work performed pursuant to the contract shall first apply to inmate workers employed pursuant to the contract.

“(f) **GOALS FOR CERTAIN BUSINESSES.**—Federal Prison Industries shall, in consultation with the Small Business Administration, establish and strive to meet or exceed realistic goals for entering into contracts with one or more of the following:

“(1) A business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

“(2) A small business concern owned and controlled by socially and economically disadvantaged individuals, as that term is defined in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

“(g) **JOB OPPORTUNITIES FOR BLIND AND SEVERELY DISABLED INDIVIDUALS.**—Federal Prison Industries shall establish business partnerships with organizations representing domestic workers who are blind or severely disabled, for the purpose of entering into contracts with private United States companies that would create job opportunities both for blind and severely disabled individuals and for Federal inmates.

“(h) **DONATION OF PRODUCTS AND SERVICES.**—The Board of Directors may authorize—

“(1) the donation of a product or service of Federal Prison Industries that is available for sale; or

“(2) the production of a new product, or the performance of a new service, for donation.

“(i) **CATALOG.**—Federal Prison Industries shall publish and maintain a catalog of all products and services that it offers for sale to government agencies and not-for-profit organizations. The catalog shall be periodically revised as products and services are added or deleted.”.

(b) **CONFORMING AMENDMENT.**—Section 1761(c)(1) of such title is amended by striking “non-Federal”.

(c) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 307 of such title is amended by striking the items relating to sections 4121, 4122, and 4123 and inserting the following:

“4121. Federal Prison Industries: status, mission, and management.

“4122. Federal Prison Industries: operating objectives, standards, and requirements.

“4123. Federal Prison Industries: transactions authorized.”.

#### **SEC. 4. ELIMINATION OF MANDATORY SOURCE PURCHASE REQUIREMENT.**

(a) **IN GENERAL.**—Section 4124 of title 18, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This subsection does not apply to services.”;

(2) by amending subsection (c) to read as follows:

“(c) Each Federal department or agency shall report purchases from Federal Prison Industries to the Federal Procurement Data System (referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))) in the same manner as it reports to such System any acquisition in an amount in excess of the simplified acquisition threshold (as defined in section 4(11) of that Act (41 U.S.C. 403(11))).”; and

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

“(d)(1) The head of a Federal department or agency may purchase directly from Federal Prison Industries any of the following:

“(A) Any products with respect to which the requirement in subsection (a) has, under any authority, been suspended, waived, or not invoked.

“(B) Any services.

“(2) A purchase under this subsection may be made in any quantity and by any method that is determined appropriate by the head of the agency making the purchase without regard to any provision of law or regulation.”.

(b) **PLAN FOR PHASED ELIMINATION OF MANDATORY SOURCE.**—Not later than 180 days after the date of the enactment of this Act, the Board of Directors shall submit to Congress a plan for the elimination of the requirement of section 4124(a) of title 18, United States Code. The plan shall provide for the following:

(1) Annual reductions in the total sales that are made by Federal Prison Industries under the requirement.

(2) A prohibition on any interim significant expansion of sales under the requirement above levels authorized by the Board of Directors of Federal Prison Industries for such sales before the date of the enactment of this Act.

(3) A prohibition on sales under the requirement after the date that is five years after the date on which the plan is submitted to Congress under this section.

(c) **PUBLIC AVAILABILITY OF PLAN.**—Not later than 30 days after the date on which the plan is submitted to Congress under this section, Federal Prison Industries shall publish the plan in a commercial business publication with a national circulation. Federal Prison Industries shall make copies of the plan available to the public upon request.

(d) **REPEAL OF MANDATORY SOURCE REQUIREMENT.**—Effective on the date that is 5 years after the date on which the plan is submitted to Congress under this section, section 4124 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b); and

(2) by amending subsection (d)(1)(A) to read as follows:

“(A) Any products.”.

#### **SEC. 5. PERIODIC EVALUATION AND REPORTS.**

(a) **IN GENERAL.**—Section 4127 of title 18, United States Code, is amended to read as follows:

##### **“§ 4127. Periodic evaluation and reports**

“(a) **EVALUATION BY GAO.**—

“(1) **MATTERS EVALUATED.**—The Comptroller General shall provide for an independent evaluation of the operations of Federal Prison Industries to be carried out each year. The matters evaluated shall include the following:

“(A) The overall success of the operations.

“(B) The effects that any reduction in the purchases made under section 4124(a) has on the viability of Federal Prison Industries.

“(C) The extent to which Federal Prison Industries can successfully contract with private companies without adversely affecting domestic companies or workers.

“(2) **VIEWS INCLUDED.**—The Comptroller General shall ensure that, in the develop-

ment of appropriate methodologies for the evaluation under paragraph (1), the views of the Foreign Labor Substitute Panel, private industry, organized labor, the Board of Directors of Federal Prison Industries, and the public are solicited.

“(3) **REPORT.**—Not later than March 31 of each fiscal year, the Comptroller General shall submit to Congress a report on the evaluation of the operations of Federal Prison Industries that was carried out under paragraph (1) for the preceding fiscal year. The report for a fiscal year shall, at a minimum, include the following:

“(A) The evaluation.

“(B) Any concerns raised about any adverse effects on domestic companies or workers, together with any actions taken in regard to the concerns.

“(C) The extent to which Federal Prison Industries maintained at least a 25 percent employment rate for eligible inmate workers.

“(D) The extent to which Federal Prison Industries conducted its operations on a financially self-sustaining basis.

“(E) Any recommended legislation to improve the administration of this chapter or the effects of the administration of this chapter, including any recommended legislation necessary to authorize remedial actions regarding—

“(i) any conduct of the operations of Federal Prison Industries in a manner that adversely affects domestic companies or workers (excluding the effects of normal competitive business practices);

“(ii) any failure of Federal Prison Industries to maintain at least a 25 percent employment rate for eligible inmate workers; or

“(iii) any failure of Federal Prison Industries to conduct its operations on a financially self-sustaining basis.

“(b) **ANNUAL REPORT BY BOARD OF DIRECTORS.**—

“(1) **IN GENERAL.**—The Board of Directors of Federal Prison Industries shall, each year, report under section 9106 of title 31 on the conduct of the business of Federal Prison Industries and the condition of its funds during the preceding fiscal year.

“(2) **MATTERS INCLUDED.**—In addition to the matters required by section 9106 of title 31, and such other matters as the Board considers appropriate, each report for a fiscal year under paragraph (1) shall include the following:

“(A) A statement of the amount of obligations issued under section 4129(a)(1) of this title during that fiscal year.

“(B) An estimate of the amount of obligations that will be issued under that section during the following fiscal year.

“(C) An analysis of—

“(i) the total sales by Federal Prison Industries for each product and service sold to Federal agencies and to private United States companies;

“(ii) the total purchases by each Federal agency of each product and service; and

“(iii) The Federal Prison Industries share of the total Federal Government purchases by product and service.

“(D) An analysis of the inmate workforce, including—

“(i) the number of inmates employed;

“(ii) the number of inmates used to produce products or perform services sold to private United States companies;

“(iii) the number and percentage of employed inmates, categorized by term of incarceration; and

“(iv) the various hourly wages paid to inmates engaged in the production of the various products and the performance of services authorized for production and sale to



Federal agencies and to private United States companies.

“(E) Information concerning any employment obtained by former inmates upon release that is useful in determining whether the employment provided by Federal Prison Industries during incarceration provided those former inmates with knowledge and skill in a trade or occupation that enabled them to earn a livelihood upon release.

“(3) AVAILABILITY TO PUBLIC.—The Board of Directors shall make available to the public each report under this subsection.”.

(b) CLERICAL AMENDMENT.—In the table of sections at the beginning of chapter 307 of such title, the item relating to section 4127 is amended to read as follows:

“4127. Periodic evaluation and reports.”.

#### SEC. 6. RULES OF CONSTRUCTION AND DEFINITIONS.

(a) IN GENERAL.—Chapter 307 of title 18, United States Code, is amended by adding at the end the following:

##### “§ 4130. Construction of provisions

“Nothing in this chapter shall be construed—

“(1) to establish an entitlement of any inmate to—

“(A) employment in a Federal Prison Industries facility; or

“(B) any particular wage, compensation, or benefit on demand;

“(2) to establish that inmates are employees for the purposes of any law or program; or

“(3) to establish any cause of action by or on behalf of any person against the United States or any officer, employee, or contractor thereof.

##### “§ 4131. Definitions

“In this chapter:

“(1) The term ‘eligible inmate worker’ means a person who—

“(A) is committed to the custody of the Bureau of Prisons pursuant to section 3621 of this title;

“(B) is designated to a low, medium, or high security facility operated by the Bureau of Prisons; and

“(C) is physically and mentally able to work.

“(2) The term ‘private United States company’ means a corporation, partnership, joint venture, or sole proprietorship with a principal place of business in the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 307 of such title is amended by adding at the end the following new items:

“4130. Construction of provisions.

“4131. Definitions.”.

#### SEC. 7. CONFORMING AMENDMENT.

Section 436 of title 18, United States Code, is amended by striking “Whoever,” and inserting “Except as otherwise provided in this title, whoever,”.

#### FEDERAL INMATE WORK ACT OF 2001 SECTION-BY-SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

This Act may be cited as the “Federal Inmate Work Act of 2001.”

#### SECTION. 2. AUTHORITY TO CARRY OUT PILOT PROJECTS USING FEDERAL INMATE LABOR TO REPLACE FOREIGN LABOR

##### (a) Foreign Labor Substitute Pilot Projects

This section authorizes Federal Prison Industries, FPI or trade name UNICOR, to carry out pilot projects to produce products for private companies that would otherwise be produced by foreign labor. FPI currently has authority to perform commercial market services, but not for products. The interstate commerce restrictions contained in 18

U.S.C. 1761 concerning products are deemed not to apply to such projects when the provisions below are met.

##### (b) Foreign Labor Substitute Panel

This section establishes a Foreign Labor Substitute Panel, selected by the Attorney General. The Panel is to consist of eight members. In order to ensure that there is representation from those with expertise in the affected areas, this section provides that the Panel must be comprised of one representative from the Department of Commerce, the Department of Labor, the International Trade Commission, and the Small Business Administration; two representatives from the business community; and two representatives from organized labor. The Panel is not to receive pay, benefits, or allowances for their services, but may receive travel expenses. Any findings of the Panel must be made available to the public.

This section requires the Panel to review proposals for pilot projects. The Panel is authorized to approve a pilot project if, and only if, the Panel determines that: 1. the pilot will be carried out by one or more United States companies and 2. the goods, wares or merchandise proposed under the pilot would otherwise be manufactured, produced or mined by foreign labor.

#### SECTION 3. RESTATEMENT AND IMPROVEMENT OF FEDERAL PRISON INDUSTRIES PROGRAM

##### § 4121. Federal Prison Industries: status, mission, and management

###### (a) Status

This section states FPI's status as a government corporation, whose headquarters is located in the District of Columbia.

###### (b) Mission

This section states that FPI's mission is to carry out industrial operations in accordance with the parameters of this section.

###### (c) Board of Directors

FPI's current statute provides for six Presidentially appointed Board of Directors who represent industry, labor, agriculture, retailers and consumers, the Secretary of Defense and the Attorney General. This section substitutes the Attorney General for the President and expands FPI's Board of Directors from the current six members to twelve members to increase representation from business, organized labor, victims of crime, and the inmate rehabilitation community. Four members would be required to be selected from the recommendations of the House and Senate majority and minority leadership. The Board also must include two representatives from the business community, two from organized labor, one member representing victims of crime, one representing prisoner rehabilitation community, and two additional members whose background and expertise the Attorney General deems appropriate.

This section continues the current provision that the Board of Directors serve without pay, allowances, or benefits. The members of the Board shall serve for a four year term or until the remainder of a four year term if a member is replaced. Seven board members constitute a quorum. The term limits for the first appointments are varied in order to provide for term limits that are staggered. The Chairman of the Board is to be elected by members of the Board.

##### § 4122. Federal Prison Industries: operating objectives, standards, and requirements

###### (a) Operating Objectives

This section requires that FPI's operations be conducted so as to: 1. increase public safety and reduce recidivism by providing meaningful employment and vocational skills, 2. minimize adverse effects on domestic compa-

nies or workers, 3. provide meaningful employment and vocational training for not less than 25 percent of eligible inmate workers, 4. provide income so as to help inmates pay their financial obligations, 5. generate sufficient revenue to fund the corporation, and 6. provide market quality and competitively priced products and services.

###### (b) Performance Standards

This section requires FPI to comply with standards, as applicable to correctional industry programs, including: United Nations standards, and International Labor Organization Conventions to which the United States is a signatory party, Federal standards, and American Correctional Association Standards.

###### (c) Voluntariness

This section requires that inmates participate in FPI operations voluntarily. This is currently FPI's practice.

###### (d) Wage Rates

This section requires that inmate workers be paid the wage rates prescribed by the Board of Directors, unless otherwise provided by law.

###### (e) Protection of Certain Information

This section prohibits inmates from having access to personal or national security information, that is otherwise not publicly available.

###### (f) Vocational Training

While FPI is authorized to fund vocational training programs, this section specifies that where financially feasible, FPI contribute at least twenty percent of its net profits each year for this purpose.

###### (g) Exemption from Public Contracting and Procurement Laws

In order to be as competitive as possible in commercial market ventures, this section exempts FPI from federal procurement and public contracting requirements. This provision is consistent with exemptions granted to other federal agencies with commercial-like missions, such as the U.S. Postal Service and the U.S. Mint.

###### (h) Liability

This section provides that personal injuries arising out of FPI work shall be compensated pursuant to the Federal Employees' Compensation Act, for Federal Employees, or the Federal Tort Claims Act, for all other persons. This is consistent with current law.

###### (i) Deductions from Wages

This section permits the Board of Directors to make deductions from the amounts paid to FPI inmate workers to pay court ordered fines, restitution, child support, to compensate for reasonable charges for costs of incarceration, to compensate crime victims, and for amounts to be held on account and paid to the inmate upon release from the custody of the BOP. With certain exceptions, the deductions may not exceed 80 percent for FPI inmate workers being paid higher wage rates that comply with 18 U.S.C. 1761(c), for Prison Industry Enhancement pilot projects, or 50 percent for FPI inmate workers being paid prison industry wage rates. Current BOP policy permits these deductions to a maximum of 50 percent. This section requires that inmates agree in advance to any deductions, withholdings, or disbursement of those amounts.

##### § 4123. Federal Prison Industries: transactions authorized

###### (a) Sales to Agencies and Not-For-Profits

This section permits FPI to sell its products, as well as services (which are already authorized in the commercial market), to government agencies and not for profit organizations. Currently, FPI may only sell its products to the federal government.

*(b) Sales of Certain Commodities*

This section also permits FPI to carry out programs to manufacture commodities specified in 18 U.S.C. 1761(b) (agricultural commodity sales, as well as commodities sold to federal, D.C. or state entities).

*(c) Participation in Foreign Labor Substitute Pilot Projects*

This section authorizes FPI to participate in pilot projects as approved by the Foreign Labor Substitute Panel.

*(d) Participation in BJA Pilot Projects*

This section authorizes FPI to make its products (in addition to services which are currently authorized) for private companies if inmates are paid a wage rate that complies with 18 U.S.C. 1761(c). This is similar to the authority that state prisons currently have to sell products to the commercial market, provided the inmates are paid comparable locality wages pursuant to the Prison Industry Enhancement, P.I.E., Program.

*(e) Requirements for Contracts with Private Companies*

In FPI contracts with companies pursuant to a pilot program, the contracts must require the inmate work to be carried out in a FPI facility. The contract must prohibit the private company from displacing any of its existing domestic workers as a direct result of the contract with FPI. Any workforce reductions carried out by the company performing comparable work must apply first to the inmate workers performing work under the contract.

*(f) Goals for Certain Businesses*

This section requires FPI, in consultation with the Small Business Administration, to establish and strive to meet or exceed realistic goals for entering into contracts with small business concerns and with small business concerns owned and controlled by socially and economically disadvantaged individuals.

*(g) Job Opportunities for Blind and Severely Disabled Individuals*

This section requires FPI to establish business partnerships with organizations representing domestic workers who are blind and severely disabled to create job opportunities in furtherance of its efforts to contract with private companies.

*(h) Donation of Products and Services*

FPI would be authorized to donate products or services in the Board's discretion, which it currently cannot do.

*(i) Catalog*

This section requires FPI to continue to maintain a catalog of its products and services and keep it updated.

## SECTION 4. ELIMINATION OF MANDATORY SOURCE PURCHASE REQUIREMENT

This section requires FPI to phase out its use of the mandatory source preference.

*(a) In General*

This section clarifies that the mandatory source preference in section 4124 applies to products only. Neither this section nor section 4124 require any Federal Government agency or department to purchase services from FPI. As is currently required by law, this section requires each Federal department or agency to report purchases from FPI to the Federal Procurement Data System. See 41 U.S.C. 405(d)(4). This section further clarifies that federal entities may continue to buy FPI products or services voluntarily and directly from FPI, even without the mandatory source requirement.

*(b) Plan for Phased Elimination of Mandatory Source*

This section requires that the Board of Directors develop and submit a plan to Con-

gress within 180 days after the enactment of this Act, that would phase out mandatory source over a five year period.

*(c) Public Availability of Plan*

This section requires that FPI publish the plan in a commercial business publication with national circulation, and make it available to the public.

*(d) Repeal of Mandatory Source Requirement*

Effective five years after the date the plan is submitted, this section repeals the mandatory source requirement.

## SECTION 5. PERIODIC EVALUATION AND REPORTS

**§ 4127. Periodic evaluation and reports***(a) Evaluation by GAO*

This section requires the GAO to provide for annual evaluations to assess the continued viability of FPI and its ability to contract with private companies without adversely affecting domestic companies or workers. The GAO is to ensure that the views of the Foreign Labor Substitute Panel, private industry, organized labor, FPI's Board of Directors and the public are sought in the development of appropriate evaluation methodologies by which to assess the program's overall success.

This Section also requires the GAO to report annually to Congress its evaluation FPI's operations, to include any concerns raised about any adverse impact on domestic companies or workers; the extent to which FPI was able to maintain at least a 25 percent employment rate for work eligible inmates; the extent to which FPI was able to conduct its operations in a financially self-sustaining manner; and any recommended legislation, if any, for statutory changes to improve the administration or effects of the program, including recommended remedial actions.

*(b) Annual Report by Board of Directors*

This section requires FPI to report annually to Congress on its operations and financial condition. Although the current statute requires these annual reports, this section expands the specific information to be included in such reports, such as the total sales of FPI products and services to Federal agencies and to private companies, the total purchase by Federal agency of each product and service, and the FPI share of the total Federal Government purchases. An analysis shall also determine the number of inmates employed, and the number and percentage of employed inmates in the production of products and the performance of services authorized for production and sale to agencies and private companies. The report must also include information concerning any employment obtained by former inmates upon release that is useful in determining whether the employment provided by FPI during incarceration provided those inmates with knowledge and skill in a trade or occupation that enabled those inmates to earn a livelihood upon release.

**§ 4130. Construction of Provisions**

This section is intended to preclude Federal inmates from asserting an employee-employer relationship or other entitlements out of their work with FPI.

## SECTION 6. RULES OF CONSTRUCTION AND DEFINITIONS

**§ 4131. Definitions**

This section defines the terms used in this Act.

## SECTION 7. CONFORMING AMENDMENT.

This section makes a conforming amendment.

By Mr. WELLSTONE (for himself and Ms. STABENOW):

S. 1229. A bill to amend the Federal Food Drug, and Cosmetic Act to permit individuals to import prescription drugs in limited circumstances; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I rise to introduce legislation that helps to correct the injustice that finds American consumers the least likely of any in the industrialized world to be able to afford drugs manufactured by the American pharmaceutical industry. The reason is the unconscionable prices the industry charges only here in the United States.

I am under no illusion that this legislation provides comprehensive or ultimate relief to Americans who are struggling to afford the prescription drugs they need. However, this bill does expose and highlight the problem American consumers face and it provides a certain measure of immediate relief for individuals struggling with the high cost of prescription drugs.

When I return to Minnesota which I do frequently, I meet with many constituents, but none with more compelling stories than senior citizens struggling to make ends meet because of the high cost of prescription drugs, life-saving drugs that are not covered under the Medicare program. Ten or twenty years ago these same senior citizens were going to work everyday—in the stores, and factories, and mines in Minnesota, earning an honest paycheck, and paying their taxes without protest. Now they wonder, how can this government, their government, stand by, when the medicines they need are out of reach.

It is not just that Medicare does not cover these drugs. The unfairness which Minnesotans feel is exacerbated of course by the high cost of prescription drugs here in the United States, the same drugs that can be purchased for frequently half the price in Canada or Europe. These are the exact same drugs, manufactured in the exact same facilities with the exact same safety precautions. A year ago, most Americans did not know that the exact same drugs are for sale at half the price in Canada. Today, you can bet the pharmaceutical industry wishes no one knew it. But the cat is out of the bag, and it is time for Congress to begin to address these inequities.

Legislators, especially from Northern States but also from all around the country, have heard first-hand stories from constituents who are justifiably frustrated and discouraged when they can't afford to buy prescription drugs that are made in the United States, unless they go across the border to Canada where those same drugs, manufactured in the same facilities are available for about half the price. It is time to codify the right of Americans to go to Canada and certain other countries to buy the prescription drugs they need at a price they can afford. And it is time to allow Americans to obtain those necessary medications through the mail as well.



Driving to Canada every few months to buy prescription drugs at affordable prices isn't the solution; it is a symptom of how broken parts of our health care system are. Americans regardless of party have a fundamental belief in fairness, and know a rip-off when they see one. It is time to allow Americans to end-run that rip-off.

While we can be proud of both American scientific research that produces new miracle cures and the high standards of safety and efficacy that we expect to be followed at the FDA, it is shameful that America's most vulnerable citizens, the chronically ill and the elderly, are being asked to pay the highest prices in the world here in the U.S. for the exact same medications manufactured here but sold more cheaply overseas.

That is why today I am introducing with Senator STABENOW the Personal Prescription Drug Import Fairness Act, a bill which will amend the Food, Drug, and Cosmetic Act to allow Americans to legally import prescription drugs into the United States for their personal use as long as the drugs meet FDA's strict safety standards. With this legislation, Americans will be able to legally purchase these FDA-approved drugs in person or by mail at huge savings.

What this bill does is to address the absurd situation by which American consumers are paying substantially higher prices for their prescription drugs than are the citizens of Canada, and the rest of the industrialized world. This bill does not create any new Federal programs. Instead it uses principles frequently cited in both house of the Congress, principles of open trade and competition, on a personal level, to help make it possible for American consumers to purchase the prescription drugs they need.

The need is clear. A recent informal survey by the Minnesota Senior Federation on the price of six commonly used prescription medications showed that Minnesota consumers pay, on average, nearly double, 196 percent, that paid by their Canadian counterparts. These excessive prices apply to drugs manufactured by U.S. pharmaceutical firms, the same drugs that are sold for just a fraction of the U.S. price in Canada and Europe.

Now, however, Federal law allows only the manufacturer of a drug to import it into the U.S. It is time to stop protecting the pharmaceutical industry's outrageous profits, and they are outrageous, and give all Americans the legal right to purchase their prescription drugs directly from a pharmacy in a limited number of countries with regulatory systems the FDA has found meet certain minimal standards.

Last year, the editors of *Fortune Magazine*, writing about 1999 pharmaceutical industry profits, noted that "Whether you gauge profitability by median return on revenues, assets, or equity, pharmaceuticals had a Viagra kind of year." In 2000, drug company profits were just as excessive.

Let's take a look at the numbers, so there can be no mistake:

Where the average Fortune 500 industry in the United States returned 4.5 percent profits as a percentage of revenue, the pharmaceutical industry returned 18.6 percent.

Where the average Fortune 500 industry returned 3.3 percent profits as a percentage of their assets, the pharmaceutical industry returned 17 percent.

Where the average Fortune 500 industry returned 14.6 percent profits as a percentage of shareholders equity, the pharmaceutical industry returned 29.4 percent.

Those record profits are no surprise to America's senior citizens because they know where those profits come from, they come from their own pocketbooks. It is time to end the price gouging.

We need every piece of legislation we can get to help assure our Senior Citizens and all Americans that safe and affordable prescription medications can be legally obtained from countries with a track records of prescription drug safety. The Personal Prescription Drug Import Fairness Act is one such step.

We all know that the giant step this Congress should be taking is the enactment of a comprehensive Medicare prescription drug benefit. Such a benefit should address two issues. First, Medicare beneficiaries are entitled to a drug benefit as good as Congress provides for itself. That means a low deductible, 20 percent copay, a cap on out-of-pocket expenses of about \$2,000, and affordable premiums. Second, we need seriously to address the outrageously high prices that Americans are forced to pay for prescription drugs. If we address those high prices, we can provide a comprehensive benefit at a price that is affordable to Medicare beneficiaries and to the Federal Government. I have already introduced a bill, S. 925, the Medicare Extension of Drugs to Seniors Act of 2001, that provides affordable comprehensive benefits and makes it possible to enact them by reigning in the ever increasing cost of pharmaceuticals using three complimentary approaches.

But, while we wait for the Finance Committee and this Congress to act on a Medicare drug benefit, we should not lose the opportunity to provide some needed relief. That is why I am introducing the Personal Prescription Drug Import Fairness Act today.

This bill includes specific protections, which were not included in a recent House-passed amendment to the Agriculture Appropriations bill. These protections include: 1. importation for personal use only of no more than a 3 month supply at any one time; 2. limitation on country of origin; 3. no importation of controlled substances or biologics; 4. requirement that imported drug be accompanied by a form prescribed by the Secretary of HHS in consultation with the Secretary of the Treasury that makes clear what over-

seas pharmacy is dispensing the drug, who will be receiving it, and who will be responsible for the recipients medical care with the drug in the United States.

The only things that are not protected in this bill are the excessive profits of the pharmaceutical industry. My job as a United States Senator is not to protect those profits but to protect the people. Colleagues, please join in and support this thoughtful and necessary bill that will help make prescription drugs more affordable to the American people.

By Mr. FRIST (for himself and Mrs. CLINTON):

S. 1230. A bill to amend the Public Health Service Act to focus American efforts on HIV/AIDS, tuberculosis, and malaria in developing countries; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, I rise to discuss critically important legislation that I am introducing today along with Senator CLINTON to address the international crises of HIV/AIDS, tuberculosis, and malaria. The threats of HIV/AIDS, tuberculosis, and malaria are not strictly American problems, they ignore national borders, threatening the entire world. Together, these three diseases cause over 300 million illnesses and five million death each year.

We are all aware of the chilling global impact of HIV/AIDS, 22 million have already died worldwide and more than three million in the last year alone. Sixty million are currently infected with HIV, a number that increases by 15,000 each day. In 2000, 2.4 million individuals died in Africa alone.

Tuberculosis and malaria are also ravaging the developing world. Eight million people are infected with tuberculosis each year; over two million of whom die. There are over 400 million clinical cases of malaria diagnosed each year, resulting in over one million deaths. Over 700,000 of those who die each year are children. Malaria is endemic to 101 countries and territories.

Not only do these three diseases produce over 50 percent of the deaths due to infectious diseases each year, but they also have complex disease patterns that result in them facilitating each other's spread. By weakening the immune system, infection with HIV increases susceptibility to both tuberculosis and malaria. Furthermore, the increasing number of multi-resistant tuberculosis cases is largely attributed to resistance developed in HIV-infected patients. Finally, in treating severe anemia that commonly accompanies illness due to malaria, untested blood transfusions create a method of HIV/AIDS spread.

Historically, the United States has played a critical role in addressing international crises. There is perhaps no greater crisis that we face worldwide than the spread of deadly infectious disease. Therefore, we must provide the leadership to confront the

global HIV/AIDS, malaria, and tuberculosis epidemics. History will record how we respond to the call.

We know what is needed to reverse the epidemic. Work by community-based organizations, both religious and secular, has been the linchpin of grassroots success. As a surgeon, I have traveled to numerous areas of Africa, Sudan, Kenya, the Congo, and Uganda. I have performed operations in converted school houses and ill-equipped hospitals where I seen first-hand the great need, and the important role, that American involvement can play in providing hope through health education and treatment.

We fight this battle in two ways—by improving primary prevention and expanding access to treatment. Actions to provide drugs to developing countries at dramatically reduced costs represent a promise to those currently suffering from AIDS. However, access to those treatments without appropriate health care infrastructure is a moot point. We must support the development of effective health care delivery systems, personnel training and infrastructure. We must also support programs targeting affected by AIDS, such as the millions of orphans.

I have already introduced legislation with Senator KERRY, the International Infectious Diseases Control Act of 2001. This Act would direct the President to work with foreign governments, the United Nations, UN, the World Bank, and the private sector to establish the Global AIDS and Health Fund to fight HIV/AIDS, malaria, and tuberculosis. This fund would provide grants to governments and non-governmental organizations for implementation of effective and affordable HIV/AIDS, malaria, and tuberculosis programs, with initial priority to programs to combat HIV/AIDS.

It is important to contribute to these international efforts not only by providing monetary support but also our time, our energy, and our expertise. Therefore, today Senator CLINTON and I are introducing legislation to help mobilize our Nation's public health infrastructure in the fight against international HIV/AIDS, tuberculosis, and malaria. The Global Leadership in Developing an Expanded Response, GLIDER, initiative will place American health care providers in nations confronting the epidemics of HIV/AIDS, tuberculosis, and malaria and provide them with the tools to carry out prevention programs, care, treatment, and infrastructure development. In addition, it will evaluate current methods of treatment and levels of access to treatment and enhance disease surveillance. Finally, it will increase funding for research into treatment and vaccine development.

The GLIDER initiative expands programs administered by the Departments of State, Health and Human Services, Defense, and Labor to ensure that U.S. government agencies are contributing their scientific and diplo-

matic expertise to the problems associated with the spread of HIV/AIDS, malaria, and tuberculosis throughout the world.

This initiative, coordinated through the offices of the Secretary of State and Secretary of Health and Human Services, in collaboration with the Secretaries of Defense and Labor, targets four objectives: to promote and expand our primary prevention efforts, improve clinic-, community- and home-based care and treatment, provide assistance to those individuals who are affected by such diseases such as AIDS orphans and families, and assist with capacity and infrastructure development.

The close partnership between the Departments of State and Health and Human Services will be crucial in ensuring that this program is run in complete coordination with national, regional and local initiatives, medial and scientific experts, non-governmental organizations, and diplomatic missions. I would like to take a moment to thank Secretary Thompson and Secretary Powell for their personal commitment to this issue. I know that they are working together to bring the full force of the Administration behind the efforts to combat HIV/AIDS, tuberculosis, and malaria. Their support and input has been invaluable in helping us to draft legislation that builds upon and enhances our efforts to combat infectious diseases worldwide.

Another essential component to broadening the U.S. mandate for involvement in international health initiatives is the creation of the Paul Coverdell Health Care Corps, a Corps based on the Peace Corps and run through the Department of Health and Human Services. This Corps would provide assistance for the placement of health care professionals who wish to provide their services in developing countries dealing with the crises of HIV/AIDS, tuberculosis, and malaria. This legislation provides flexibility in the design of the program but ensures a wide variety of volunteer opportunities—both short-term and long-term projects, administered by the Ministries of Health, local communities, non-governmental organizations, both faith-based and secular, or the United States government.

Where do we go from here?

First, public-private partnerships are extremely important and should be encouraged to attack the pressing problems. This can take place through widespread support for the Global AIDS and Health Fund and by hastily enacting a vaccine development tax credit.

Furthermore, we should promote access to high-quality health care by engaging the American public health infrastructure in a collaborative effort to address an epidemic that has no regard for international boundaries.

We must enlist each stakeholder in the fight against HIV/AIDS. Political, ethnic, and religious leaders can coa-

lesce support for prevention, care, and treatment programs as well as reduce stigmas attached to the disease—a crucial element to any prevention program.

Finally, we must not lose sight of the importance of prevention when attempting to provide treatment. Likewise, we must not let the importance of treatment for those presently be forgotten in the rush to enhance awareness and prevention efforts.

As Americans, our challenge has always been to work with other nations to create a better, safer world through courage, persistence, and patience.

That is still our challenge today. And I have no doubt that, as a nation, and as a people, we will rise to it.

The bipartisan legislation we are introducing today is an important step toward achieving these goals. I thank my cosponsors for their support. And, I look forward to working with all my colleagues to improve our international efforts to fight deadly infectious diseases by passing the GLIDER Act.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 1231. A bill to amend the Federal Power Act to establish a system for market participants, regulators, and the public to have access to certain information about the operation of electricity power markets and transmission systems; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, it is time to lift the veil of secrecy around energy markets in this country.

Now that electric power is being traded as a commodity, with electricity bought and sold in markets all across the country, basic information about things like transmission capability and outages must be made available to the public. This information is crucial both for the markets to function efficiently and for the public to have confidence in these markets. But, unlike other commodities, it is often difficult to get basic information about how electric power systems and markets work. Information about the supply, demand and transmission of electricity around the country is simply unavailable in many areas of the country to State regulators and the general public.

The electric power industry has not made this information available, and without Congressional action, Americans will continue to be kept in the dark about information they need to make informed choices and which will enable energy markets to work in a fair way.

Today, along with Senator BURNS, I am introducing the Electricity Information, Disclosure, Efficiency, and Accountability Act to open up access to operating information so that the markets can operate more efficiently, which can ultimately provide lower prices for consumers.

Our legislation will create a standard system to provide market participants,

regulators and the public with access to key operational information about wholesale electric transmission systems and power markets. The bill requires operators of wholesale electric transmission and other bulk power systems to provide all system users with basic operating information, including all transmission line and generation facility data used to determine capacity or restraints on a transmission line and the supply and demand for electricity. Power system operators already have access to this information as part of their routine operation of bulk power systems. So there should be no additional burden on power generators to disclose information beyond what they are already providing to their system operators.

In general, the bill would require operating information to be released on a real-time basis, updated hourly. This would ensure that market participants can keep current with changing conditions throughout the day that impact market decisions. This release of real-time data will also ensure there is a level playing field for all users of the transmission grid and prevent some users from gaining a competitive advantage by access to non-public information.

At the same time, the bill also creates a mechanism for keeping commercially sensitive information confidential or delaying disclosure of information that could be used to manipulate markets. Our legislation gives the Federal Energy Regulatory Commission authority to decide what data is considered commercially sensitive and either should not be publicly disclosed or should only be disclosed when the data is no longer commercially sensitive.

In developing this legislation, we have worked with a broad range of stakeholders including market participants, regulators and consumer groups. The supporters include Enron, the largest electric power marketer in the U.S. today, the National Association of Regulatory Utility Commissioners, NARUC, and the Consumer Federation of America.

The bill we are introducing today will lift the veil of secrecy now shrouding the operations of electric power systems around the country. It will improve access to critical information about how electric power systems and markets work while fully protecting commercially sensitive data. By improving access to information, market participants will be better informed when they make the thousands of decisions that must be made every day about how electricity is generated to customers across the country. Better access to information will enable regulators to take appropriate steps to ensure our electric power systems are reliable and that markets are functioning properly. Ultimately, by creating more efficient systems and markets, electricity customers throughout the country will be better served.

I urge my colleagues to support the Electricity Information, Disclosure, Efficiency, and Accountability Act.

I ask unanimous consent that letters of support written by NARUC and the Consumer Federation of America be printed in the RECORD.

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

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS,  
Washington, DC, July 24, 2001.

Senator RON WYDEN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WYDEN: Thank you for leadership in sponsoring legislation to address the data access difficulties confronting State Public Utility Commissions. Additionally, the National Association of Regulatory Utility Commissioners (NARUC) would like to thank you for working with NARUC members and staff to include in your draft legislation our recommendations on the types of information necessary to adequately monitor wholesale electricity markets and to assure proper access to such information. NARUC supports the draft legislation you are sponsoring regarding electricity information disclosure.

Many regional electric markets throughout the country have experienced price spikes of unusual and unexpected proportions. These price spikes have led to curtailment or shutdown of operations of some large industrial customers and to increased prices for smaller commercial and residential customers.

The high market price volatility has raised concerns about the integrity of the markets, leading to calls from numerous participants, consumers and policy makers for heightened monitoring of these markets by regulatory bodies. In order to identify corrective policy options to assure the public of the competitiveness and efficiency of the developing wholesale electricity market and its prices, regulatory bodies need access to data such as production for generating plants, transmission path schedules and actual flows.

The electric industry restructuring efforts of the federal government and the various states are based upon an assumption that wholesale markets are workably competitive. To that end, policy makers must have the ability to provide confidence to an already skeptical and uneasy public that the market is not being "gamed." This confidence can only be provided if regulators are able to access the data necessary to ensure that the market is functioning in a truly competitive fashion. To the extent data is currently shared among market participants for purposes of reliability, it should also be available to regulators and the public.

In conclusion, I would like to thank you again for considering NARUC's concerns and recommendations while you drafted the "Electricity Information, Disclosure, Efficiency, and Accountability Act." NARUC would be pleased to provide any additional assistance necessary to move this legislation forward.

Sincerely,

CHARLES D. GRAY  
Executive Director.

CONSUMER FEDERATION OF AMERICA,  
Washington, DC, July 24, 2001.

Re Support for Wyden/Burns Electricity Information, Disclosure, Efficiency and Accountability Act.

Hon. RON WYDEN,  
U.S. Senate, Washington, DC.  
Hon. CONRAD BURNS,  
U.S. Senate, Washington, DC.

DEAR SENATORS WYDEN AND BURNS: The Consumer Federation of America supports this legislation, which would require that essential information about the functioning and reliability of electricity markets be provided to the public, regulators and market participants on a real-time basis. This would include operating data used by wholesale system operators to determine available electric capacity and bottlenecks and to maintain reliability. Bid data would also have to be made available, such as the price, amount and delivery location of electricity that is purchased.

In a series of studies over the last three years, the Consumer Federation of America has documented in detail how the flawed deregulation of electricity in a number of states has led to extensive price spikes and brown outs for consumers and huge windfalls for many energy producers. Among the many steps that should be taken to fix this highly dysfunctional market is the creation of functioning market institutions and greater transparency. Market institutions should be developed before, not after, the trading of electricity begins so that trading is transparent and disciplined by market forces. Undeveloped information and trading mechanisms are prone to manipulation. As we've seen in California over the last year, when abuse occurs under such circumstances, consumers are vulnerable to price gouging and the provision of unreliable electricity.

Electricity markets have a multitude of complex transactions. Unfortunately, good information about these transactions is not generally available at crucial times, such as periods of scarcity when wholesale electric prices are being driven up very quickly. There is simply no centralized, reliable source of information, particularly for electric system operators. Moreover, the brokers who are the sources of information—on bid prices, for instance—may well have an interest in skewing it. Overall, a number of information and management weaknesses exist, including inadequate market forecasting tools, a lack of monitoring instruments and little real-time information to respond to market problems.

This legislation addresses the lack of timely information that exists about the rates, terms and conditions under which wholesale electricity is being offered. It is an essential step in making this nation's defective electricity markets more competitive and more pro-consumer.

Sincerely,

TRAVIS B. PLUNKETT,  
Legislative Director.

Mr. BURNS. Mr. President, I am pleased to join Senator WYDEN today with the introduction of the Electricity Information, Disclosure, Efficiency, and Accountability Act.

Legislation dealing with market data for the wholesale electric power market is long overdue. The evolving wholesale electric power market is being hindered by the lack of data that power suppliers need in order to provide services to the market. Access to real time operational information leads to improved efficiencies of systems dispatch in the short term, which

leads to lower prices for consumers. The absence of reliable, real time, market data hinders the ability of energy suppliers to manage price and volume risk and also prevents efficient utilization of transmission and generation capacity. Consequently, the increased costs associated with risks inherent in operating without reliable data are ultimately borne by consumers.

As our Nation moves towards consumer choice it is important that this Congress takes action to direct the Federal Energy Regulatory Commission (FERC) to craft rules designed to promote transparency in energy markets. This bill that Senator WYDEN and I have introduced will do just that.

By incorporating a standard system that would provide market participants, regulators and the public access to certain operational information concerning power markets and the transmission systems that support them, this plan would keep participants abreast of the changing power operating conditions throughout the day that impact market decisions required to manage risk. The recent fluctuations in the Western energy markets have shown Montana and every State in the West that we cannot shelter ourselves from the power operating conditions in other States. With more access to that information, our local and State suppliers can have the information to better protect their consumers.

This bill is backed by consumer groups, power marketers, and the national utility commissioners. It puts forward a framework that many of our colleagues can support. As the Senate continues to move closer to having movements on energy legislation, I would urge my colleagues to also support the Electricity Information, Disclosure, Efficiency, and Accountability Act.

By Mr. McCONNELL:

S. 1232. A bill to provide for the effective punishment of online child molesters, and for other purposes; to the Committee on the Judiciary.

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

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

S. 1232

*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 "Cybermolesters Enforcement Act of 2001".

#### SEC. 2. MANDATORY MINIMUM SENTENCES.

Section 2423 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "not less than 5 and" before "not more than 15"; and

(2) in subsection (c), by inserting "not less than 5 and" before "not more than 15".

#### SEC. 3. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AGAINST CHILDREN.

(a) CHILD PORNOGRAPHY.—Section 2516(1)(c) of title 18, United States Code, is amended by

inserting "section 2252A (relating to material constituting or containing child pornography)," after "2252 (sexual exploitation of children).";

(b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.—Section 2516(1) of title 18, United States Code, as amended by section 3 of this Act, is amended—

(1) by striking "or" at the end of paragraph (o);

(2) by inserting after paragraph (o) the following:

"(p) a violation of section 2422 (relating to coercion and enticement) or section 2423 (relating to transportation of minors) of this title, if, in connection with that violation, the sexual activity for which a person may be charged with a criminal offense would constitute a felony offense under chapter 109A or 110, if that activity took place within the special maritime and territorial jurisdiction of the United States; or"; and

(3) by redesignating paragraph (p) as paragraph (q).

(c) TECHNICAL AMENDMENT ELIMINATING DUPLICATIVE PROVISION.—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking the first paragraph (p); and

(2) by inserting "or" at the end of paragraph (o).

#### SEC. 4. CHILD PORNOGRAPHY AS CONTRABAND.

Section 80302(a) of title 49, United States Code, is amended—

(1) in paragraph (5), by striking "or" after the semicolon;

(2) in paragraph (6)(D), by striking the period and inserting "or"; and

(3) by inserting at the end the following:

"(7) material involved in a violation of section 2252A of title 18, United States Code (relating to material constituting or containing child pornography).";

By Mr. KOHL (for himself, Mr. HATCH, Mr. LEAHY, Mr. DEWINE, and Mr. DURBIN):

S. 1233. A bill to provide penalties for certain unauthorized writing with respect to consumer products; to the Committee on the Judiciary.

Mr. KOHL. Madam President, I rise today with Senators HATCH, LEAHY, DEWINE, and DURBIN to introduce the Product Packaging Protection Act of 2001. This measure will help prevent and punish a disturbing trend of product tampering, the placement of hate-filled literature into the boxes of cereal or food that millions of Americans bring home from the grocery store every day.

Opening a box of macaroni and cheese should not be a harrowing experience. But too many Americans have recently opened product boxes and found offensive, racist, anti-Semitic, pornographic and hateful leaflets. In the last few years, food manufacturers have received numerous complaints from consumers who report finding such literature inserted in their groceries. Hundreds more incidents have likely gone unreported. Pizza and cereal boxes appear to be the most frequent targets of this hate speech, but any product large enough for a vandal to insert an offensive leaflet is a potential target.

As disturbing as this conduct is, it is equally troubling that no Federal law exists. And only a couple of State laws are in place. The measure I introduce today will remedy this situation. It is

supported by the manufacturers whose products are tampered with. It is necessary for us to help the American consumer.

It will empower the government to investigate and punish these reprehensible acts. Let me give you one example of how these acts impact unsuspecting Americans. This conduct can harm the youngest and most impressionable among us.

Recently, one morning, eight year old Mario Alexander of Chestnut Ridge, NJ decided to make himself breakfast one morning. In a kitchen cabinet, he found an unopened box of his favorite cereal, Oreo O's. So, he grabbed the cereal, a bowl, a spoon, and milk from the refrigerator. He then sat down at the kitchen table and opened the cereal box. In addition to the sealed bag of cereal inside, he also found a piece of paper. When he opened it, he discovered a graphic description of abortion. The leaflet also informed Mario that groups like the National Organization of Women and the American Civil Liberties Union are "Natural Born Killers." Imagine his surprise and confusion when he found that propaganda, not to mention the shock of his parents. No child should be unknowingly exposed to that kind of material. Yet, it happens regularly in kitchens across the country.

These are not isolated occurrences. In fact, Kraft Foods has documented over 80 incidents in the past four years alone, almost one every two weeks. Of course, there is no way to calculate the number of incidents that go unreported. Many manufacturers and distributors share Kraft's experience with this type of product tampering. Together, they recognize the need for this legislation and have signed a letter supporting the introduction and passage of this bill. The supporters of this bill include: the American Bakers Association, the American Frozen Food Institute, Food Distributors International, General Mills, the Grocery Manufacturers of America, the Independent Bakers Association, Kellogg's, Kraft Foods, the National Food Processors Association, and the National Frozen Pizza Institute.

No child, indeed no person, should have to face this type of assault in the privacy of their homes. But children like Mario Alexander are not the only victims of this kind of behavior. The companies that make these products have their names and reputations slandered by this activity.

Manufacturers have responded as best they can to these incidents. They have undertaken internal reviews to ensure that these leaflets are not getting into the products either at the manufacturing plant or during distribution. It is not until the products reach the shelves of the grocery store that these handbills are inserted, too late for the manufacturer or the distributor to do anything about it.

Unfortunately, when consumers or companies turn to the authorities for

help, they cannot be assisted. According to the Federal Bureau of Investigation and the Food and Drug Administration's Office of Criminal Investigation, these actions are not covered by federal product tampering statutes. Those laws only cover the actual product themselves, but not the packaging. In response to incidents in their respective states, both New Jersey and California passed laws to criminalize this behavior. These States should be commended, but more should be done. Federal law needs to be amended accordingly.

The Product Packaging Protection Act of 2001 would prohibit the placement of any writing or other material inside a consumer product without the permission of the manufacturer, authorized distributor, or retailer. An exception would be made where the manufacturer places inserts in the product solely for promotional purposes. The penalty for violation of this measure would be a fine of up to \$250,000 per offense and/or imprisonment of up to three years. Closing this gap in Federal law would appropriately punish people whose actions violate the integrity of the food product, compromise consumer's faith in the food they purchase in the grocery store, and damage the good name and reputation of the food manufacturer.

I look forward to its consideration and passage.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD following the completion of my remarks. I also ask unanimous consent that copies of the remarks of cosponsoring Senators be printed immediately following my statement.

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. 1233

*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 "Product Packaging Protection Act of 2001".

#### SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Whoever, without the consent of the manufacturer, retailer, or authorized distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than three years, or both.

"(2) As used in paragraph (1) of this subsection, the term 'writing' means any form of representation or communication, including handbills, notices, or advertising, that

contain letters, words, or pictorial representations."

Mr. HATCH. Mr. President, I am proud to sponsor, along with my good friend and esteemed colleague, Senator KOHL, the Product Packaging Protection Act of 2001. Other cosponsors include Senator DEWINE and the distinguished Chairman of the Judiciary Committee, Senator LEAHY.

This bipartisan legislation addresses a troubling development that has been increasingly reported over the last several years—the discovery by consumers of unauthorized pamphlets placed inside the packaging of everyday consumer products, such as breakfast cereal and frozen foods. In many cases, unsuspecting consumers, including young children, have found offensive messages inserted into the products they have purchased, including pamphlets explicitly advocating violence against particular racial, ethnic, and religious groups.

While Federal law currently prohibits tampering with consumer products that taints the product, or renders the labeling materially false, the law does not currently prohibit someone placing writings in or on the product after the product has left the manufacturer's control. The legislation being introduced today will close this loophole—providing the FBI and other Federal law enforcement agencies with jurisdiction to investigate these incidents and bring the perpetrators to justice.

With all the recent focus on protecting our children from corrupting influences on the Internet, we should not ignore old-fashioned "low tech" avenues by which harmful and often hateful messages may be disseminated. It is intolerable for the distributors of our foodstuffs and other consumer products to become the unwitting carriers of offensive harmful messages.

I look forward to working with Senator KOHL to ensure passage of this important legislation.

Mr. LEAHY. Madam President, I am pleased to join Senator KOHL, and others, on introducing the Product Packaging Protection Act of 2001.

Over the last few years, consumer complaints had been made about offensive material being inserted in various consumer products. These offensive materials range from neo-Nazi and anti-Semitic hate messages to pornographic images and disturbing anti-abortion images. Unfortunately, these materials have been found in consumer products often used by children, such as cereal boxes. Moreover, such activities pose risks to the safety of consumer products, which consumers reasonably expect to obtain from the store in pristine condition and without those products having been opened by unauthorized individuals.

To address this problem, this legislation would add a new prohibition to the Federal Anti-Tampering Act, 18 U.S.C. § 1365, to prohibit a person from intentionally tampering with a consumer

product, without the consent of the manufacturer, retailer, or authorized distributor by inserting a writing in the consumer product or its container prior to its sale to a consumer. A person convicted of violating this new provision would be subject to a fine or up to two years' imprisonment. The term "tamper" is defined to mean meddling for the purpose of altering, damaging or misusing a product. See Webster's Dictionary. The bill describes in precise terms the tampering activity that would fall within the new criminal prohibition, and is intended to extend further protection to consumer products.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1040. Mr. DORGAN (for himself, Mrs. BOXER, Mr. TORRICELLI, Mr. DAYTON, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 1041. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1042. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1043. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1044. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1045. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1046. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1047. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1048. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1049. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1050. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1051. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1052. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1053. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1054. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.