AMENDMENT NO. 3504

At the request of Mr. LEVIN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of amendment No. 3504 intended to be proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2539. A bill to prohibit the use of taxpayer funds to advocate a position that is inconsistent with existing Supreme Court precedent with respect to the Second amendment; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, today I am introducing legislation to prohibit the use of taxpayer funds to advocate a position on the meaning of the Second Amendment that is inconsistent with existing Supreme Court precedent, as expressed in the Supreme Court case of United States v. Miller.

This legislation responds to the Bush Administration's recent filing of two unprecedented briefs to the United States Supreme Court, which argued that the Second Amendment establishes an individual right to possess firearms. In taking this position, the Justice Department directly contradicted the well-established precedents of the Supreme Court, as expressed in the seminal case of United States v. Miller. In that 1939 case, the Supreme Court found that the Second Amendment did not establish a private right of individuals to possess firearms, but rather was intended to ensure the effectiveness of groups of citizen-soldiers known at the time as the Militia.

The Court in United States v. Miller explained the historical background to the Second Amendment and issued its ruling clearly and unambiguously. That ruling has never been reversed, and the Court has followed it in every subsequent related case. Similarly, the precedent in United States v. Miller has been followed by every Justice Department over the past several decades, including the Justice Departments of Presidents Ronald Reagan, Richard Nixon and George H.W. Bush.

The meaning of the Second Amendment should not be a partisan issue. In fact, it should not be a political issue. It is a legal and constitutional issue. And the law on this question has been clearly established by the highest court in the land in case after case for a period of many decades.

Unfortunately, instead of following the law, as Attorney General promised to do during his confirmation hearing, the Bush Administration and the Justice Department have used their authority to file briefs as a means of pursuing a partisan political agenda that flies in the face of established Supreme Court precedents. This is wrong. And, in my view, it is a misuse of taxpayer dollars.

Congress should not have to pass a law to ensure that the Executive Branch follows the Constitution, as clearly interpreted by the Supreme Court. Unfortunately, in light of the Bush's Administration's latest actions, Congress must step in. After all, Congress's ultimate power is the power of the purse. And we have a responsibility to use that power, when necessary, to ensure that the Executive Branch complies with constitutional law.

This responsibility flows from Congress's obligation to preserve, protect and defend the Constitution. It also flows from our obligation to ensure that taxpayer dollars are not misused. The American people should not be forced to pay taxes to support an unreasonable interpretation of the Second Amendment that is not only inconsistent with constitutional law, but that threatens to undermine legislation needed to reduce gun violence and to save lives.

In 1998, more than 30,000 Americans died from firearm-related deaths. That is almost as many as the number of Americans who died in the entire Korean War. In my view, there is much that Congress needs to do to reduce these deaths, including enacting reasonable gun safety legislation. Yet if the Bush Administration prevails in its effort to radically revise the Second Amendment, such laws could well be undermined. The end result would be more death and more families losing loved ones to the scourge of gun violence.

In fact, I would note that one week after the Bush Administration filed their briefs, lawyers for accused American Taliban terrorist John Walker Lindh used the Administration's arguments to urge dismissal of the gun charge filed against him. Now, I hope and trust that the courts will quickly reject this line of argument. But why would the Bush Administration want to strengthen the position of criminals and alleged terrorists like John Walker Lindh in the first place?

I have asked the Congressional Research Service whether there are any constitutional precedents that would bar the Congress from adopting this legislation, and the answer was ''no.'' I also would note that there is precedent for Congress prohibiting the use of taxpayer dollars to advocate positions with which Congress disagrees. For example, Congress for many years prohibited the Justice Department from using appropriated money to overturn certain rules under our antitrust laws. This responded to the filing of a brief in the Supreme Court by the Justice Department urging a revision of its precedents on resale price maintenance, and the legislation effectively blocked the Department from filing similar briefs.

In conclusion, we should not allow taxpayer dollars to be used to misrepresent the meaning of the Second Amendment on behalf of a partisan, political agenda. We should defend the Constitution against such ideological attacks. We should protect taxpayers from being forced to subsidize ideological gambits. And we should ensure that the Constitution is not misused to undermine gun safety legislation that could save the lives of many innocent Americans.

I hope my colleagues will support the bill, and I ask unanimous consent that the text of the legislation be printed in the RECORD, along with some related materials about this matter.

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

S. 2539

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

SECTION 1. PROHIBITION ON THE USE OF FUNDS.

No funds appropriated to the Department of Justice or any other agency may be used to file any brief or to otherwise advocate before any judicial or administrative body any position with respect to the meaning of the Second Amendment to the Constitution that is inconsistent with existing Supreme Court precedent, as expressed in United States v. Miller (307 U.S. 174 (1939)).

[From the New York Times, May 12, 2002]

A FAULTY RETHINKING OF THE 2ND AMENDMENT

(By Jack Rakove)

STANFORD, CA.—The Bush administration has found a constitutional right it wants to expand. Attorney General John D. Ashcroft attracted only mild interest a year ago when he told the National Rifle Association, ''The text and original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms.''

Now, briefs just filed by Solicitor General Theodore Olson in two cases currently being appealed to the Supreme Court indicate that Mr. Ashcroft's personnel opinion has become that of the United States government. This posture represents an astonishing challenge to the long-settled doctrine that the right to bear arms protected by the Second Amendment is closely tied to membership in the militia. It is no secret that controversy about the meaning of the amendment has escalated in recent years. As evidence grew that a significant portion of the American electorate favored the regulation of firearms, the N.R.A. and its allies insisted ever more vehemently that the private right to possess arms is a constitutional absolute. This opinion, once seen as marginal, has become an article of faith on the right, and Republican politicians have in turn had to acknowledge its force.

The two cases under appeal do not offer an ideal test of the administration's new views. One concerns a man charged with violating a federal statute prohibiting individuals under domestic violence restraining orders from carrying guns; the other involves a man convicted of owning machine guns, which is illegal under federal law. In both cases, the defendants cite the Second Amendment as protecting their right to have the firearms. The unsavory facts may explain why Mr. Olson is using these cases as vehicles to announce the administration's constitutional position while urging the Supreme Court not to accept the appeals.

The court last examined this issue in 1939 in United States v. Miller. There it held that

the Second Amendment was designed to ensure the effectiveness of the militia, not to guarantee a private right to possess firearms. The Miller case, though it did not fully explore the entire constitutional history, has guided the government's position on firearm issues for the past six decades.

If the court were to take up the two cases on appeal, it is far from clear that the Justice Department's new position would prevail. The plain text of the Second Amendment—''A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed''—does not support the unequivocal view that Mr. Ashcroft and Mr. Olson have put forth. The amendment refers to the right of the people, rather than the individual person of the Fifth Amendment. And the phrase ''keep and bear arms'' is, as most commentators note, a military reference.

Nor do the debates surrounding the adoption of the amendment support the idea that the framers were thinking of an individual right to own arms. The relevant proposals offered by the state ratification conventions of 1787–88 all dealt with the need to preserve the militia as an alternative to a standing army. The only recorded discussion of the amendment in the House of Representatives concerned whether religious dissenters should be compelled to serve in the militia. And in 1789, the Senate deleted one clause explicitly defining the militia as ''composed of the body of the people.'' In excising this phrase, the Senate gave ''militia'' a narrower meaning than it otherwise had, thereby making the Ashcroft interpretation harder to sustain.

Advocates of the individual right respond to these objections in three ways.

They argue, first that when Americans used the word militia, they ordinarily meant the entire adult male population capable of bearing arms. But Article I of the Constitution defines the militia as an institution under the joint regulation of the national and state governments, and the debates of 1787–89 do not demonstrate that the framers believed that the militia should forever by synonymous with the entire population.

A second argument revolves around the definition of ''the people.'' Those on the N.R.A. side believe ''the people'' means ''all persons.'' But in Article I we also read that the people will elect the House of Representatives—and the determination of who can vote will be left to state law, in just the way that militia service would remain subject to Congressional and state regulation.

The third argument addresses the critical phrase deleted in the Senate. Rather than concede that the Senate knew what it was doing, these commentators contend that the deletion was more a matter of careless editing.

This argument is faulty because legal interpretation generally assumes that lawmakers act with clear purpose. More important, the Senate that made this critical deletion was dominated by Federalists who were skeptical of the milita's performance during the Revolutionary War and opposed to the idea that the future of American defense lay with the militia rather than a regular army. They had sound reasons not to commit the national government to supporting a mass militia, and thus to prefer a phrasing implying that the militia need not embrace the entire adult male population if Congress had good reason to require otherwise. The evidence of text and history makes it very hard to argue for an expansive individual right to keep arms.

There is one striking curiosity to the Bush administration's advancing its position at this time. Advocates of the individual-right interpretation typically argue that an armed populace is the best defense against the tyranny of our own government. And yet the Bush administration seems quite willing to compromise essential civil liberties in the name of security. It is sobering to think that the constitutional right the administration values so highly is the right to bear arms, that peculiar product of an obsolete debate over the danger of standing armies—and this at a time when our standing army is the most powerful the world has known.

[From the Washington Post, May 10, 2002]

GUNS AND JUSTICE

The U.S. Solicitor General has a duty to defend acts of Congress before the Supreme Court. This week, Solicitor General Ted Olson—and by extension his bosses, Attorney General John Ashcroft and President Bush—took a position regarding guns that will undermine that mission.

Historically, the Justice Department has adopted a narrow reading of the Constitution's Second Amendment, which states that ''a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.'' Along with nearly all courts in the past century, it has read that as protecting only the public's collective right to bear arms in the context of militia service. Now the administration has reversed this view. In a pair of appeals, Mr. Olson contends that ''the Second Amendment more broadly protects the rights of individuals, including persons who are not members of any militia . . . to possess and bear their own firearms.'' Mr. Ashcroft insists the department remains prepared to defend all federal gun laws. Having given away its strongest argument, however, it will be doing so with its hands tied behind its back.

Laws will now be defended not as presumptively valid but as narrow exceptions to a broad constitutional right—one subject, as Mr. Olson put it, only to ''reasonable restrictions designed to prevent possession by unfit persons or to restrict the possession of types of firearms that are particularly suited to criminal misuse.'' This may sound like a common-sense balancing act. But where exactly does the Second Amendment, if it guarantees individual rights, permit ''reasonable restrictions''? And where does its protection exempt firearms that might be well suited for crime?

Mr. Ashcroft has compared the gun ownership right with the First Amendment's protection of speech—which can be limited only in a fashion narrowly tailored to accomplish compelling state interests. If that's the model, most federal gun laws would sooner or later fall. After all, it would not be constitutional to subject someone to a background check before permitting him to worship or to make a political speech. If gun ownership is truly a parallel right, why would the Brady background check be constitutional?

The Justice Department traditionally errs on the other side—arguing for constitutional interpretations that increase congressional flexibility and law enforcement policy options. The great weight of judicial precedent holds that there is no fundamental individual right to own a gun. Staking out a contrary position may help ingratiate the Bush administration to the gun lobby. But it greatly disserves the interests of the United States.

[From the New York Times, May 14, 2002]

AN OMINOUS REVERSAL ON GUN RIGHTS

Using a footnote in a set of Supreme Court briefs, Attorney General John Ashcroft announced a radical shift last week in six decades of government policy toward the rights of Americans to own guns. Burying the change in fine print cannot disguise the ominous implications for law enforcement or Mr. Ashcroft's betrayal of his public duty.

The footnote declares that, contrary to longstanding and bipartisan interpretation of the Second Amendment, the Constitution ''broadly protects the rights of individuals'' to own firearms. This view and the accompanying legal standard Mr. Ashcroft has suggested—equating gun ownership with core free speech rights—could make it extremely difficult for the government to regulate firearms, as it has done for decades. That position comports with Mr. Ashcroft's long-held personal opinion, which he expressed a year ago in a letter to his close allies at the National Rifle Association. But it is a position at odds with both history and the Constitution's text. As the Supreme Court correctly concluded in a 1939 decision that remains the key legal precedent on the subject, the Second Amendment protects only those rights that have ''some reasonable relationship to the preservation of efficiency of a well-regulated militia.'' By not viewing the amendment as a basic, individual right, this decision left room for broad gun ownership regulation. The footnote is also at odds with Mr. Ashcroft's pledge at his confirmation hearing that his personal ideology would not drive Justice Department legal policies.

It is hard to take seriously Mr. Ashcroft's assertion that the Bush administration remains committed to the vigorous defense and enforcement of all federal gun laws. Mr. Ashcroft, after all, is an official whose devotion to the gun lobby extends to granting its request to immediately destroy records of gun purchases amassed in the process of conducting Brady law background checks even though they might be useful for tracking weapons purchases by suspected terrorists.

The immediate effect of the Bush Justice Department's expansive reading of the Second Amendment is to undermine law enforcement by calling into question valuable state and federal gun restrictions on the books, and by handing dangerous criminals a potent new weapon for challenging their convictions. What it all adds up to is a gift to pro-gun extremists, and a shabby deal for everyone else.

By Mr. DOMENICI:

S. 2540. A bill to amend the definition of low-income families for purposes of the United States Housing Act of 1937; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DOMENICI. Mr. President, today I rise to bring the Senate's attention to a matter that is slowing Los Alamos County, NM, in its efforts to fully recover from the Cerro Grande Fire of May 10, 2000.

It is an amazing irony to me that Los Alamos National Laboratory, in recent years facing declines in personnel, is again in the national news for its ability to help with counter-terrorism on many fronts. Along with this national attention and the needs of our Homeland Security Agency for advanced scientific means to detect and deter nuclear and biological attacks, LANL is now in the process of filling about 1,000 new positions.

The irony is that the Cerro Grande fire severely reduced available housing in Los Alamos two years before our Nation turns once again to Los Alamos for its scientific talents. A major deterrent to new hires is the lack of housing

choices in Los Alamos. The housing market is even tighter because of the loss of about 400 housing units through the devastating Cerro Grande Fire. Los Alamos has a population of about 18,000 people.

While we have Federal programs to help low and moderate income Americans find good housing, in Los Alamos these programs are ineffective due to the current practice of averaging Los Alamos County and Santa Fe County incomes into one Metropolitan Statistical Area, MSA. This is harmful to Los Alamos residents, where the median income is about $82,000 because the Federal programs use the MSA median income of about $65,000 to determine participation. Eighty percent of median income is a standard measure.

Santa Fe's median income of about $40,000 thus becomes a significant factor for a Los Alamos teacher, fireman, or policeman seeking subsidized Federal assistance. Their incomes in Los Alamos are deemed to be too high to qualify for housing because 80 percent of $65,000 is used as the maximum allowed for assistance. Thus, $52,000 becomes the effective ceiling for assistance, when the actual 80 percent ceiling figure for Los Alamos incomes is about $65,000. This makes a huge difference in a high-priced and competitive market. The result is that developers are discouraged from applying for tax credits and other assistance programs because their applicants do not qualify to live in their new or remodeled housing projects.

The Los Alamos County Manager reports that not a single County employee is eligible for housing created by the Low Income Housing Tax Credits. He, like many residents and the LANL recruiting effort, remain concerned that the limited housing supply has raised rents and sales prices. Los Alamos County is also landlocked by Federal government land ownership.

There is a desperate need for affordable housing at a time when, once again, our nation is calling upon LANL for helping to meet its internal and international security needs.

This situation also exists around the New York City area, where Westchester County incomes unfairly raise the metropolitan average to the detriment of the metropolitan housing market. In that case, Congress agreed to separate Westchester County to ease the housing market situation. All I am asking in my bill is to accomplish the same goal by allowing Los Alamos County to stand on its own in terms of HUD median income requirements. My bill does not simultaneously lower the Santa Fe County income to its actual median, but, rather, allows Santa Fe County to continue to use the higher median, because the Santa Fe housing market is also very unusual, and the two-county average helps make more Santa Fe residents eligible for Federal assistance on many fronts.

I appreciate my colleagues attention to this matter, and I know the residents of Los Alamos County will be grateful for this assistance to allow more of them to make use of available HUD and other affordable housing assistance programs.

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. 2540

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

SECTION 1. LOW-INCOME FAMILIES DEFINITION.

Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(1) by inserting ''and for Los Alamos County in the State of New Mexico,'' after ''State of New York,'';

(2) by inserting '', Los Alamos,'' after ''does not include Westchester'';

(3) by inserting ''; Los Alamos,'' after ''portion included Westchester''; and

(4) by inserting before the period at the end the following: ''; and Los Alamos County, New Mexico, in the Santa Fe metropolitan area''.

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

S. 2541. A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Identity Theft Penalty Enhancement Act of 2002 along with my colleagues Senators KYL, SESSIONS, and GRASSLEY.

This bill is the culmination of efforts by the Department of Justice to craft legislation that will crack down on the most serious identity thefts in the Nation, and I am pleased to be working with the Justice Department on this legislation. In fact, Attorney General Ashcroft and I announced this bill together earlier this month.

This legislation will make it easier for prosecutors to target those identity thieves who, as is so often the case, steal an identity for the purpose of committing one or more other crimes.

Many serious crimes, even including terrorism, are aided by stolen identifies.

For instance, According to a January article in the Baltimore Sun, ''six of the 19 hijackers from September 11 were using Social Security numbers illegally. Another man linked to al-Qaida, Lofti Raissi, a 27-year old Algerian pilot from London who is believed to have trained four of the suicide hijackers, was identified in British court papers as having used the Social Security number of Dorothy Hansen, a retired factory worker from Jersey City, NJ, who died in 1991.''

Attorney General Ashcroft last week cited the example of an Algerian national now facing charges of identity theft who allegedly stole the identifies of 21 members of a health club in Cambridge, MA. The Algerian national then transferred those stolen identities to one of the individuals convicted in the failed plot to bomb Los Angeles International Airport in 1999.

In another case, Michelle Brown of Los Angeles had her Social Security number stolen in 1999, and it was used to charge $50,000 in her name, including a $32,000 truck, a $5,000 liposuction operation and a year-long residential lease. Even worse, while assuming Michelle's name, the perpetrator also became the object of an arrest warrant for drug smuggling in Texas.

In another case recently announced by the Justice Department, Joseph Kalady of Chicago was charged just last week with trying to fake his own death using the identity of another. Kalady, who was awaiting trial on charges of counterfeiting birth certificates, Social Security cards and driver's licenses last December, allegedly suffocated a homeless man and sought to have him cremated under Mr. Kalady's identity in order to fake his own death and avoid prosecution.

The stories go on and on, and it is those stories that make the legislation we introduce today so vital.

Let me just outline what this bill would do.

First, the bill would create a separate crime of ''aggravated identity theft'' for any person who uses the identity of another person to commit certain serious, federal crimes.

Specifically, the legislation would provide for an additional two-year penalty for any individual convicted of committing one of the following serious Federal crimes while using the identity of another person: stealing another's identity in order to illegally obtain citizenship in the United States; stealing another's identity to obtain a passport or visa; using another's identity to remain in the United States illegally after a visa has expired or an individual has been ordered to depart this country; stealing an individual's identity to commit bank, wire or mail fraud, or to steal from employee pension funds; and other serious federal crimes, all of them felonies.

Furthermore, the legislation would provide for an additional five year penalty for any individual that uses the stolen identity of another person to commit any one of the enumerated Federal terrorism crimes found in 18 U.S.C. 2332b(g)(5)(B). These crime include: the destruction of aircraft; the assassination or kidnapping of high level Federal officials; bombings; hostage taking; providing material support to terrorism organizations; and other terrorist crimes.

Aggravated Identity Theft is a separate crime, not just a sentencing enhancement. And the two-year and five-year penalties for aggravated identity theft must be served consecutively to the sentence for the underlying crime.

This bill also strengthens the ability of law enforcement to go after identity thieves and to provide their case.

First, the bill adds the word ''possesses'' to current law, in order to allow law enforcement to target individuals who possess the identity documents of another person with the intent to commit a crime. Current Federal law prohibits the transfer or use of false identity documents, but does not specifically ban the possession of hose documents with the intent to commit a crime. So if law enforcement discovers a stash of identity documents with the clear intent to use those documents to commit other crimes, the person who possesses those documents will now be subject to prosecution.

Second, the legislation amends current law to make it clear that if a person uses a false identity ''in connection with'' another Federal crime, and the intent of the underlying Federal crime is proven, then the intent to use the false identity to commitment that crime need not be separately proved. This simply makes the job of the prosecutor easier when an individual is convicted of a Federal crime and use a false identity in collection with that Crime.

This legislation also increases the maximum penalty for identity theft under current law from three years to five years.

And finally, the legislation we introduce today will clarify that the current 25-year maximum sentence for identity theft in facilitation of international terrorism also applies to identity theft in facilitation of domestic terrorism as well.

Identity theft is a crime on the rise in America, and it is a crime with severe consequences not only for the individual victims of the identity theft, but for every consumer and every financial institution as well.

Fraud losses at financial institutions are running well over one billion dollars annually. VISA alone reported identity theft related fraud losses of more than $114 million in 2000, a 43 percent increase in just four years.

And for victims, the losses can be staggering. The average loss from one identity theft now ranges about $18,000. Just imagine, somebody takes a credit card receipt out of a trash-can, makes a few calls, and before you know it you've lost $18,000.

And even though an individual victim may not be forced to pay in the end, the credit card companies, financial institutions and other businesses absorb the loss and pass it on to all consumers, the time and effort required to regain your identity can be quite debilitating. In fact, on average it takes a full year and a half to regain one's identity once stolen. In many instances, it can take many more years than that.

Additionally, some victims are even subject to criminal investigation or even arrest because a criminal has taken their identity and used it to commit a crime. In fact, the FTC tells us that they have received 1,300 complaints from victims alleging that they have been subject to investigation, arrest or even conviction as a result of their identity being stolen.

Identity theft comes in many forms and can be perpetrated in many ways, and that is why I have worked for many years now with Senator KYL and others to put some safeguards into the law that might better prevent the fraud from occurring in the first place, and to crack down on identity thieves.

And other legislation I have introduced would put into place certain procedural safeguards to protect credit card numbers, personal information, and other key data from potential identity thieves.

The legislation we introduce today is meant to beef up the law in terms of what happens after an identity theft takes place. In seriously enhancing the penalties for identity thieves who commit other Federal crimes, we mean to send a strong signal to all those who would commit this increasingly popular crime that the relatively free ride they have experienced in recent years is over. No longer will prosecutors decline to take identity theft seriously. No longer will identity thieves get off with just a slap on the wrist, if they are prosecuted at all. Under this legislation, penalties will be severe, prosecution will be more likely, and cases against identity thieves will be easier to prove.

Every day in this country serious criminals and criminal organizations are stealing and falsifying identities with the purpose of doing serious harm to common citizens, government officials, or even our Nation itself. It is time we did something about it, and this bill is an important step in that process.

I urge my colleagues to support this bill, and I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 2541

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 ''Identity Theft Penalty Enhancement Act of 2002''.

SEC. 2. AGGRAVATED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

''§ 1028A. Aggravated identity theft

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

''(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

''(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

''(1) a court shall not place on probation any person convicted of a violation of this section;

''(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

''(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of—

''(1) section 664 (relating to theft from employee benefit plans);

''(2) section 911 (relating to false personation of citizenship);

''(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

''(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

''(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

''(6) any provision contained in chapter 69 (relating to nationality and citizenship);

''(7) any provision contained in chapter 75 (relating to passports and visas);

''(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

''(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

''(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

''(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a–7b(a)) (relating to false statements relating to programs under the Act).''.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

''1028A. Aggravated identity theft.''.

SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking ''transfers'' and inserting ''transfers, possesses,''; and

(B) by striking ''abet,'' and inserting ''abet, or in connection with,'';

(2) in subsection (b)(1)(D), by striking ''transfer'' and inserting ''transfer, possession,'';

(3) in subsection (b)(2), by striking ''three years'' and inserting ''5 years''; and

(4) in subsection (b)(4), by inserting after ''facilitate'' the following: ''an act of domestic terrorism (as defined under section 2331(5) of this title) or''.

By Ms. CANTWELL:

S. 2542. A bill to amend title XVIII of the Social Security Act to establish a medicare demonstration project under which incentive payments are provided in certain areas in order to stabilize, maintain, or increase access to primary care services for individuals enrolled under part B of such title; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Medicare Incentive Access Act of 2002. I am pleased that Congressman RICK LARSEN will introduce companion legislation in the U.S. House of Representatives.

As my colleagues may be hearing, Medicare beneficiaries across the country are reporting increasing difficulty finding a physician willing to accept their Medicare coverage. In fact, according to the American Medical Association, nearly 30 percent of family physicians nationwide are not accepting new Medicare patients, and 57 percent of Washington State physicians are limiting the number or dropping all Medicare patients from their practices.

There is no doubt that we need to reform Medicare, and I am particularly concerned with the Medicare physician fee schedule issued by the Centers for Medicare and Medicaid Services, CMS. Although CMS insists that physician payment rates will increase more than the general rate of inflation, I am extremely concerned that any additional physician payment reductions may dramatically affect the quality of care offered to beneficiaries and further exacerbate the access problems so many of our constituents are now facing.

Unfortunately, there seems to be a prevailing idea that government programs should automatically pay less than private insurers for the same quality care. I am especially concerned that providers serving a disproportionate number of Medicare and Medicaid patients are facing unsustainable fee reductions.

In its March 2002 report, the Medicare Payment Advisory Committee, MedPAC, the independent Federal body that advises Congress on Medicare payment issues, weighed in on the current Medicare reimbursement rate debate. MedPAC observes that ''provider entry and exit data provide information regarding adequacy of the current level of payments.''

Keeping in mind that MedPAC's goal is to ensure that Medicare's payment rates cover the costs that efficient providers would incur in beneficiaries' care, it is especially important that MedPAC asserts that ''evidence of widespread access or quality problems for beneficiaries may indicate that Medicare's payment rates are too low.'' In fact, MedPAC surveyed physicians nationwide, and found that 45 percent said that reimbursement levels for their Medicare fee-for-service patients are a very serious problem.

Every day I hear from my constituents that they are facing increasing difficulty in getting primary care services, and from physicians who can no longer afford to take on new Medicare patients.

One woman in Steilacoom, WA, contacted me about her son, a quadriplegic, who was recently informed that the doctor who has been treating him for a number of years will no longer be able to take Medicare patients.

Another woman from Lynden, WA, told me that her doctor is leaving his practice due to low Medicare reimbursements, her 89-year-old father has also been going to this same doctor and now the family cannot find a local doctor to take him.

When another constituent from Tacoma had to move into the city she had to call numerous physicians before she found one who would take a new Medicare patient.

One physician in Bellingham wrote me to say that one of his favorite patients will no longer see her family practitioner because she has Medicare. This doctor writes ''when our seniors feel bad and ashamed about going in to see their physicians because their insurance'' coverage is Medicare, I think that reflects very poorly on Medicare, our government, our government, that runs the program, and, to some extent, the caregivers who feel it is a financial burden to take care of our seniors. I couldn't agree more.

In fact, according to the Washington State Department of Health, in Clallam and Kittitas counties in my home State, only 20 percent of primary care physicians reported that they would take new Medicare patients. Yet, at the same time, most practices are accepting new patients with private employer-sponsored insurance. This suggests that general physician shortages are not the major cause underlying the fact that so many physician practices are closing or closed to Medicare patients.

I understand that there are basic fairness issues involved in the national debate over Medicare reimbursements. I am not pretending that the Senate will comprehensively address geographic differences or payment inequities this session. But I do believe we can look at more targeted, limited solutions to address the Medicare reimbursement and access issues on a demonstration level.

We already have a public health program in place, the primary care health professional shortage area designation, HPSA, to determine whether an area has a critical shortage of physicians available to serve the people living there. In fact, this is the measurement used in placing National Health Service Corps doctors in underserved areas.

A HPSA can be a distinct geographic area, such as a county, or a specific population group within the area, such as the low-income. However, in many shortage locations, access to care is a problem for only part of the population. For example, while most residents in a city may have adequate access to care, the elderly or poor may not. And while population HPSA designations measure access problems for Medicaid and low-income patients, migrant workers, and the homeless, there is no designation that specifically identifies or addresses Medicare-related demographics. My bill changes that.

The bill I am introducing today, the Medicare Incentive Access Act, will create a new Medicare Health Professional Shortage Area, HPSA, through a three-year, five-state HHS/Medicare demonstration project. Primary care doctors in an area designated as a Medicare HPSA will receive an automatic 40 percent bonus on all of their Medicare billings.

I believe it is vitally important that the federal government systematically examine different provider incentive programs in order to stabilize, maintain, and increase quality, efficient primary care services for Medicare beneficiaries. I want this demonstration program to examine how we can specifically preserve beneficiary access to primary care providers. The demonstration project will also examine what level of incentive is necessary to prevent future access problems.

I want to point out that while current law prohibits multiple HPSA designations, the demonstration project will not affect current HPSA designations needed for other programs, such as Community Health Centers. In addition, physicians in states participating in the Medicare HPSA demonstration project will not be able also to receive payments under the Medicare Incentive Payment program, which bases its ten percent bonus on geographic shortage areas. As I mentioned earlier, geographic shortage areas actually have nothing to do with measuring Medicare-related access issues.

There is an abundance of excellent research currently underway at the six Federal rural health research centers on all Medicare provider reimbursement issues. These research centers are already set up for demonstration analyses like the one required under my bill. I sincerely appreciate the help Gary Hart, Ph.D. has provided me in developing this proposal and discussing other, more comprehensive, means by which to look at different Medicare payment and access issues. Dr. Hart is the director of the WWAMI Rural Health Research Center at the University of Washington, which is largely focusing on rural physician payments.

I also want to thank Vince Schueler and Laura Olexa of the Office of Community and Rural Health and the Washington Department of Health, for providing invaluable assistance in understanding rural health problems, the

Federal HPSA designation, and access barriers for Medicare beneficiaries, especially in rural areas of the State. After we began discussing this problem, they went out of their way to do additional surveys in rural counties to measure the most current access to primary care physicians for both Medicaid and Medicare patients.

Finally, I want to thank the Washington State Medical Association and Len Eddinger for their advice and assistance on this issue. I am delighted that the WSMA has endorsed this legislation, and I ask unanimous consent that its letter of support be added in the record at the end of my statement.

The fact of the matter is that there is a crisis at hand regarding Medicare benefits, and Medicare payments, and as a country, we simply have not invested as we should in health care.

I sincerely believe that all individuals should have access to quality and affordable medical care including the ability to visit doctors whom they trust. It will do the country little good to provide guaranteed health care for the elderly and disabled if physicians are unwilling to work with Medicare patients because of inadequate payment policies.

I believe the bill I am introducing today, the Medicare Incentive Act, is a good approach to examining these very important issues. I encourage my colleagues to take a look at this bill, and to join me in cosponsoring it.

I ask unanimous consent that a letter of support be printed in the RECORD.

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

WASHINGTON STATE MEDICAL ASSOCIATION,
May 13, 2002.

Hon. MARIA CANTWELL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the 8,800 members of the Washington State Medical Association (WSMA), please accept my sincere thanks for all the work you are doing to improve the Medicare program.

The financial condition of the health care delivery system in Washington state is as poor as I have seen in my nearly 25 years of practice. As I travel the state and speak with my colleagues, it has become clear that something dramatic and sustainable must be done to ensure the long viability of Medicare and Medicaid.

At our May Executive Committee meeting, we had an opportunity to discuss the draft of your proposed legislation to develop demonstration projects to enhance physician reimbursement within established Medicare Health Professional Shortage Areas. We view the approach as extremely creative and well worth the time and effort of investigation. Our hope is that successful implementation of this scenario will lead to incentives across the entire physician community.

Senator, there is no doubt that declining reimbursements in the Medicare and Medicaid programs are putting enormous stress on medical practices and causing physicians to limit patients who are eligible for these programs. We look forward to working with you and your staff to alleviate this pressing social problem.

Please let us know what we can do to help by contacting Len Eddinger, WSMA's Director of Public Policy, in the Olympia office of the WSMA at (360) 352–4848 or be email: len@wsma.org.

Sincerely,

SAMUEL W. CULLISON, MD,
President.

By Mr. LEVIN (for himself and Mr. DEWINE):

S. 2544. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern, to authorize assistance for research an development of innovative technologies for such remediation, and for other purposes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, the General Accounting Office has recently completed a study on the cleanup of Contaminated Areas in the Great Lakes. While it is no surprise to those of us who live in the Great Lakes region, GAO found that there has been ''slow progress of cleanup efforts''.

For those of you who live outside the Great Lakes region, Areas of Concern are sites in the Great Lakes that do not meet the water quality goals established by the United States and Canada in the Great Lakes Water Quality Agreement. The primary reason that these areas fail to meet water quality goals is the result of contaminated sediments, a result of the industrialization of the mid-west. In order to meet the water quality goals, the Great Lakes Water Quality Agreement binds us to an identified cleanup process focused around Remdial Action Plans, RAPs.

RAPs define the environmental problem, evaluate remedial measures, and identify a process for moving forward with cleanup. The RAP process relies on State and public involvement, and RAPs need the financial support of the Federal Government.

The GAO reports that the RAP process is often disregarded by the states and EPA. The progress that is being made to cleanup the Areas of Concern is being made not under the Great Lakes Water Quality Agreement but under other laws such as Superfund. EPA has failed to provide oversight responsibility for RAPs and does not provide nearly enough financial resources for RAPs. In addition to these problems associated with EPA, there is no way to implement RAPs because there is no pot of money to do so and no established procedure to follow.

There are 13 areas of concern in the State of Michigan which result in fish advisories, degradation of fish and wildlife populations, taste and odor problems with drinking water, beach closures, and bird and animal deformities or reproductive problems. These environmental problems are too grave considering the fact that the Great Lakes holds one-fifth of the world's freshwater, supplies drinking water to 33 million people, and provides a $2 billion fishery.

So today, with my colleague from Ohio, Senator DEWINE, I am introducing the Great Lakes Legacy Act to authorize $50 million per year in grants to States to cleanup Areas of Concern and implement RAPs. This legislation will also require EPA to report to Congress within 1 year on how it plans to provide the oversight needed to make sure that the Areas of Concern will meet water quality goals.

The problem of contaminated sediments in the Great Lakes has been known for decades, and I hope that my colleagues will support this legislation to hopefully cleanup Areas of Concern.

Mr. DEWINE. Mr. President, I rise today to discuss a very important environmental issue, not just to my home State of Ohio, but to our entire Nation, and that issue is the protection of our Great Lakes. These lakes are a natural treasure that hold one-fifth of the world's freshwater, produce $2 billion per year in fish, and provide drinking water to 33 million people.

Yesterday, the GAO released a report on the progress of cleanup in polluted Areas of Concern. These Areas of Concern, or AOCs, are sites in the Great Lakes that do not meet water quality goals. Many years ago, the United States and Canada identified 44 AOCs in the Great Lakes and agreed to a cleanup process.

In my home State of Ohio, there are four AOCs, the Maumee River, the Ashtabula River, the Black River, and the Cuyahoga River. These areas suffer fish and wildlife consumption restrictions, fish and wildlife reproductive problems and deformities, algal blooms, restrictions on drinking water consumption, and beach closings. These environmental problems need to be addressed as quickly as possible.

Unfortunately, cleanup has been very slow. The GAO report found that the Environmental Protection Agency, EPA, has failed to take oversight responsibility, Federal funding has declined steadily over the years, and States have abandoned the cleanup process.

These results are disturbing to say the least. This is why Senator LEVIN and I, as Co-Chairs of the Senate Great Lakes Task Force, are introducing a bill today that would authorize $50 million per year in grants to States for the cleanup of Areas of Concern. Cleanup work includes monitoring and evaluating sites, remediating sediment, and preventing further contamination. This legislation would authorize the EPA to conduct research and development of innovative approaches, technologies, and techniques for the remediation of sediment in the Great Lakes and would authorize the Great Lakes National Program Office to carry out a public information grant program to provide information about the contaminated sediments, as well as activities to clean-up the site. Finally, as the GAO report recommends, our bill would require the EPA to submit a report to

Congress on the actions, time periods, and resources that are necessary for the EPA to oversee the Remedial Action Plans at Areas of Concern.

I urge my colleagues to support this legislation and honor an international commitment to protect a truly great natural resource. We must honor our commitment to future generations and do all we can to protect the Lakes for our children and grandchildren. We owe it to them.

By Mr. DOMENICI (for himself, Mr. BIDEN, Mr. LUGAR, Ms. LANDRIEU, Mr. HAGEL, Mr. BINGAMAN, Mr. MURKOWSKI, and Ms. MIKULSKI):

S. 2545. A bill to extend and improve United States programs on the proliferation of nuclear materials, and for other purposes; to the Committee on Armed Services.

Mr. DOMENICI. Mr. President, I rise to introduce a new bill, the Nuclear Nonproliferation Act of 2002. Senators BIDEN, LUGAR, LANDRIEU, HAGEL, MURKOWSKI and BINGAMAN—the junior Senator from my State—join me in cosponsoring this important piece of legislation.

The end of the Soviet Union in 1991 started a chain of events, which in the long term can lead to vastly improved global stability. Concerns about global confrontations were greatly reduced after that event.

But with that event, the Soviet system of guards, guns, and a highly regimented society that had effectively controlled their weapons of mass destruction, along with the materials and expertise to create them, was significantly weakened. Even today, with Russia's economy well on the road to recovery, there's still plenty of room for concerns about the security of these Russian assets.

The tragic events of September 11 brought the United States into the world of international terrorism, a world from which we had been very sheltered. Even with the successes of the subsequent war on terrorism, there's still ample reason for concern that the forces of Al Qaeda and other international terrorists are seeking other avenues to disrupt peaceful societies around the world.

In some sense, the events of September 11 set a new gruesome standard against which terrorists may measure their future successes. There should be no question that these groups would use weapons of mass destruction if they could acquire them and deliver them here or to countless other international locations.

One of our strongest allies in the current war on terrorism has been the Russian Federation. Assistance from the Russians and other states of the former Soviet Union has been vital in many aspects of the conflict in Afghanistan.

President Putin and President Bush have forged a strong working relationship, and the current summit meeting is another measure of interest in increased cooperation. As this new bill seeks to strengthen our nonproliferation programs, it provides many options for actions to be conducted through joint partnerships between the Russian Federation and the United States that build on this increased cooperative spirit.

The Nunn-Lugar program of 1991 and the Nunn-Lugar Domenici legislation of 1996 provided vital support for cooperative programs to reduce the risks that weapons of mass destruction might become available to terrorists. They established a framework for cooperative progress that has served our nation and the world very well. But despite their successes, there remain many actions that should be taken to further reduce these threats.

The report by Howard Baker and Lloyd Cutler is one of the most comprehensive calls for increased attention to these risks. That report, which was written well before September 11, and many others have suggested additional actions that could and should be taken beyond the two original bills.

One of the most important realizations from September 11 concerns the global reach of the forces of terrorism. It's now clear that our nuclear nonproliferation programs should extend far beyond the states of the former Soviet Union.

This new bill expands and strengthens many of the programs established earlier, to further reduce threats to global peace. It expands the scope of several programs to world-wide coverage. It focuses on threats of a nuclear or radiological type, which fall within the expertise of the National Nuclear Security Administration of the Department of Energy.

It expands programs to include the safety and security of nuclear facilities and radioactive materials around the world, wherever countries are willing to enter into cooperative arrangements for threat reduction. It recognizes that devices that disperse radioactive materials, so-called ''dirty bombs,'' can represent a real threat to modern societies.

Dirty bombs could be used as weapons of mass terror, property contamination, and economic disaster. We need better detection systems for the presence of dirty bombs that are appropriate to the wide range of delivery systems for such a weapon, from trucks to boats to containers. And we need to be far better prepared to deal with the consequences of such an attack.

The new legislation includes provisions to accelerate and expand existing programs for disposition of fissile materials. These materials, of course, represent not only a concern with dirty bombs, but also the even larger threat of use in crude nuclear weapons.

It includes a program that should help accelerate the conversion of highly enriched uranium into forms unusable for weapons. It addresses one of the major concerns associated with this material, that both the United States in the Atoms for Peace program as well as the Soviet Union, provided highly enriched uranium to many countries as fuel for research reactors. That fuel represents a proliferation risk today.

It authorizes new programs for global management of nuclear materials, in cooperation with other nations and with the International Atomic Energy Agency. It recognizes that modern societies use radioactive materials as essential tools in many ways, and offers assistance in providing new controls on the most dangerous of these materials.

It suggests that many of the program elements involve international cooperation with the Russian Federation and with other nations. In fact, it recognizes that the global nature of the current threats requires such cooperation, and provides authorizations for the Secretary of Energy and Secretary of State to offer significant help to other nations. In many cases, we cannot accomplish these programs without such cooperation.

This new bill includes provisions extending the first responder training programs, originally created under Nunn-Lugar-Domenici. These programs have already made real contributions. In fact, the training provided under this program in New York City helped mitigate the catastrophe there on September 11. That program was authorized for only 5 years in the original legislation. This bill extends that authorization for another 10 years for first responder preparation in various communities and cities of America.

The new bill requires annual reports demonstrating that all our nonproliferation programs are well coordinated and integrated. Countless reports have called for improved coordination of all federal nonproliferation programs. The original call for this coordination in the Nunn-Lugar-Domenici legislation was completely ignored by the Clinton administration.

The report requires an annual statement of the extent of coordination between federally funded and private activities. That is very important, because of the important work being done by private organizations, like the Nuclear Threat Initiative, that are providing critical assistance toward similar nonproliferation goals.

With this new bill, our programs to counter threats of nuclear and radiological terrorism will be significantly strengthened and risks to the United States and our international partners can be greatly reduced.

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. 2545

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 ''Nuclear Nonproliferation Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Whereas the focus on the security of radioactive materials before the events of September 11, 2001, was on fissile materials, it is now widely recognized that the United States must expand its concerns to the safety and security of nuclear facilities, and the radioactive materials in use or stored at such facilities, that may be attractive to terrorists for use in radiological dispersal devices as well as in crude nuclear weapons. Such materials include all radioactive materials in the nuclear fuel cycle (such as nuclear waste and spent fuel) as well as industrial and medical radiation sources. Steps must be taken not only to prevent the acquisition of such materials by terrorists, but also to rapidly mitigate the consequences of the use of such devices and weapons on public health and safety, facilities, and the economy.

(2) The technical activities of United States efforts to combat radiological terrorism should be centered in the National Nuclear Security Administration because it has the nuclear expertise and specialized facilities and activities needed to develop new and improved protection and consequence mitigation systems and technologies. New technologies and systems should be developed by the Administration in partnership with other agencies and first responders that also have the operational responsibility to deal with the threat of radiological terrorism.

(3) Fissile materials are a special class of materials that present a range of threats, from utilization in improvised nuclear devices to incorporation in radiological dispersal devices. The Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 et seq.) focused on cooperative programs with the former Soviet Union to control such materials. It is critical that these efforts continue and that efforts commence to develop a sustainable system by which improvements in such efforts are retained far into the future. Development of such a sustainable system must occur in partnership with the Russian Federation and the other states of the former Soviet Union.

(4) The Russian Federation and the other states of the former Soviet Union are not the only locations of fissile materials around the world. Cooperative programs to control potential threats from any of such materials should be expanded to other international partners. Programs, coordinated with the International Atomic Energy Agency and other international partners, should be initiated to optimize control of such materials.

(5) The Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993 (the so-called ''HEU deal''), represents an effective approach to reducing the stocks of the Russian Federation of highly enriched uranium (HEU). However, such stocks are much larger than contemplated in the Agreement, and many other nations also possess quantities of highly enriched uranium. Global stability would be enhanced by modification of all available highly enriched uranium into forms not suitable for weapons. Efforts toward such modification of highly enriched uranium should include expansion of programs to deal with research reactors fueled by highly enriched uranium, which were provided by the United States under the Atoms for Peace program and the Atomic Energy Act of 1954 and similarly encouraged by the former Soviet Union.

(6) Expansion of commercial nuclear power around the world will lead to increasing global stocks of reactor grade plutonium and fission products in spent fuel. If improperly controlled, such materials can contribute to proliferation and represent health and environmental risks. The international safeguards on such materials established through the International Atomic Energy Agency must be strengthened to deal with such concerns. The National Nuclear Security Administration is the appropriate Federal agent for dealing with technical matters relating to the safeguard and management of nuclear materials. The United States, in cooperation with the Russian Federation and the International Atomic Energy Agency, should lead the international community in developing proliferation-resistant nuclear energy technologies and strengthened international safeguards that facilitate global management of all nuclear materials.

(7) Safety and security at nuclear facilities are inextricably linked. Damage to such facilities by sabotage or accident, or the theft or diversion of nuclear materials at such facilities, will have substantial adverse consequences worldwide. It is in the United States national interest to assist countries that cannot afford proper safety and security for their nuclear plants, facilities, and materials in providing proper safety and security for such plants, facilities, and materials, and in developing the sustainable safety and security cultures that are required for the safe and secure use of nuclear energy for peaceful purposes. The National Nuclear Security Administration is the appropriate Federal agent for dealing with the technical aspects of providing for international nuclear safety that must be coordinated with safeguards of nuclear materials.

(8) The United States has provided sealed sources of nuclear materials to many countries through the Atoms for Peace program and the Atomic Energy Act of 1954. These sources remain property of the United States. A recent report of the Inspector General of the Department of Energy, entitled ''Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries'', noted that a total of 2–3 kilograms of plutonium were in sources provided to 33 nations and that the Department can not account fully for these sources. Many of these sources are small enough to present little risk, but a careful review of sources and recipients could identify concerns requiring special attention. In addition, the former Soviet Union supplied sealed sources of nuclear materials for research and industrial purposes, including some to other countries. These sources contain a variety of radioactive materials and are often uncontrolled, missing, or stolen. The problem of dangerous radiation sources is international, and a solution to the problem will require substantial cooperation between the United States, the Russian Federation, and other countries of the former Soviet Union, as well as international organizations such as the International Atomic Energy Agency. The International Nuclear Safety and Cooperation program and the Materials Protection, Control, and Accounting program of the National Nuclear Security Administration address such matters. However those programs need to be strengthened.

(9) Authorization for domestic testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons provided by section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2315) has expired. These tests have been invaluable in preparing first responders for a range of potential threats and should be continued.

(10) Coordination of all Federal nonproliferation programs should be improved to maximize efficiency and effectiveness of programs in multiple agencies. Congress needs a comprehensive annual report detailing the nonproliferation policies, strategies, and budgets of the Federal Government. Cooperation among Federal and private nonproliferation programs is critical to maximize the benefits of such programs.

(11) The United States response to terrorism must be as rapid as possible. In carrying out their antiterrorism activities, the departments and agencies of the Federal Government, and State and local governments, need rapid access to the specialized expertise and facilities at the national laboratories and sites of the Department of Energy. Multiple agency sponsorship of these important national assets would help achieve this objective.

SEC. 3. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.

(a) EXTENSION OF TESTING.—Section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2720; 50 U.S.C. 2315) is amended—

(1) in subsection (a)(2), by striking ''of five successive fiscal years beginning with fiscal year 1997'' and inserting ''of fiscal years 1997 through 2013''; and

(2) in subsection (b)(2), by striking ''of five successive fiscal years beginning with fiscal year 1997'' and inserting ''of fiscal years 1997 through 2013''.

(b) CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendment made by subsection (a) may not be construed as modifying the designation of the President entitled ''Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997'', dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996.

SEC. 4. PROGRAM ON TECHNOLOGY FOR PROTECTION FROM NUCLEAR OR RADIOLOGICAL TERRORISM.

(a) PROGRAM REQUIRED.—(1) The Administrator for Nuclear Security shall carry out a program on technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, disposition, consequence management, and consequence mitigation of the dispersal of radiological materials or of nuclear terrorism.

(2) The Administrator shall carry out the program as part of the nonproliferation and verification research and development programs of the National Nuclear Security Administration.

(b) PROGRAM ELEMENTS.—In carrying out the program required by subsection (a), the Administrator shall—

(1) provide for the development of technologies to respond to threats or incidents involving nuclear or radiological terrorism in the United States;

(2) demonstrate applications of the technologies developed under paragraph (1), including joint demonstrations with the Office of Homeland Security and other appropriate Federal agencies;

(3) provide, where feasible, for the development in cooperation with the Russian Federation of technologies to respond to nuclear or radiological terrorism in the former states of the Soviet Union, including the

demonstration of technologies so developed; and

(4) provide, where feasible, assistance to other countries on matters relating to nuclear or radiological terrorism, including—

(A) the provision of technology and assistance on means of addressing nuclear or radiological incidents;

(B) the provision of assistance in developing means for the safe disposal of radioactive materials;

(C) in coordination with the Nuclear Regulatory Commission, the provision of assistance in developing the regulatory framework for licensing and developing programs for the protection and control of radioactive sources; and

(D) the provision of assistance in evaluating the radiological sources identified as not under current accounting programs in the report of the Inspector General of the Department of Energy entitled ''Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries'', and in identifying and controlling radiological sources that represent significant risks.

(c) REQUIREMENTS FOR INTERNATIONAL ELEMENTS OF PROGRAM.—(1) In carrying out activities in accordance with paragraphs (3) and (4) of subsection (b), the Administrator shall consult with—

(A) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and

(B) the International Atomic Energy Agency.

(2) The Administrator shall encourage joint leadership between the United States and the Russian Federation of activities on the development of technologies under subsection (b)(4).

(d) INCORPORATION OF RESULTS IN EMERGENCY RESPONSE ASSISTANCE PROGRAM.—To the maximum extent practicable, the technologies and information developed under the program required by subsection (a) shall be incorporated into the program on responses to emergencies involving nuclear and radiological weapons carried out under section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2315).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Energy for the National Nuclear Security Administration to carry out activities under this section amounts as follows:

(1) For fiscal year 2003, $40,000,000.

(2) For each fiscal year after fiscal year 2003, such sums as may be necessary in such fiscal year.

SEC. 5. EXPANSION OF INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.

(a) EXPANSION OF PROGRAM TO ADDITIONAL COUNTRIES AUTHORIZED.—The Secretary of Energy may expand the International Materials Protection, Control, and Accounting (MPC&A) program of the Department of Energy to encompass countries outside the Russian Federation and the independent states of the former Soviet Union.

(b) NOTICE TO CONGRESS OF USE OF FUNDS FOR ADDITIONAL COUNTRIES.—Not later than 30 days after the Secretary obligates funds for the International Materials Protection, Control, and Accounting program, as expanded under subsection (a), for activities in or with respect to a country outside the Russian Federation and the independent states of the former Soviet Union, the Secretary shall submit to Congress a notice of the obligation of such funds for such activities.

(c) ASSISTANCE TO DEPARTMENT OF STATE FOR NUCLEAR MATERIALS SAFEGUARDS PROGRAMS.—(1) As part of the International Materials Protection, Control, and Accounting program, the Secretary of Energy may provide technical assistance to the Secretary of State in the efforts of the Secretary of State to assist other nuclear weapons states to review and improve their nuclear materials safeguards programs.

(2) The technical assistance provided under paragraph (1) may include the sharing of technology or methodologies to the states referred to in that paragraph. Any such sharing shall—

(A) be consistent with the treaty obligations of the United States; and

(B) take into account the sovereignty of the state concerned and its weapons programs, as well the sensitivity of any information involved regarding United States weapons or weapons systems.

(3) The Secretary of Energy may include the Russian Federation in activities under paragraph (1) if the Secretary determines that the experience of the Russian Federation under the International Materials Protection, Control, and Accounting program with the Russian Federation would make the participation of the Russian Federation in such activities useful in providing technical assistance under that paragraph.

(d) PLAN FOR ACCELERATED CONVERSION OR RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.—(1) The Secretary shall build on efforts to accelerate the conversion or return to the country of origin of all weapons-usable nuclear materials located in research reactors and other facilities outside the country of origin.

(2) The plan under paragraph (1) for nuclear materials of origin in the Soviet Union shall be developed in consultation with the Russian Federation.

(3) As part of the plan under paragraph (1), the Secretary shall assist the research reactors and facilities referred to in that paragraph in upgrading their materials protection, control, and accounting procedures until the weapons-usable nuclear materials in such reactors and facilities are converted or returned in accordance with that paragraph.

(4) The provision of assistance under paragraph (3) shall be closely coordinated with ongoing efforts of the International Atomic Energy Agency for the same purpose.

(e) RADIOLOGICAL DISPERSAL DEVICE PROTECTION, CONTROL, AND ACCOUNTING.—(1) The Secretary shall establish within the International Materials Protection, Control, and Accounting program a program on the protection, control, and accounting of materials usable in radiological dispersal devices.

(2) The program under paragraph (1) shall include—

(A) an identification of vulnerabilities regarding radiological materials worldwide;

(B) the mitigation of vulnerabilities so identified through appropriate security enhancements; and

(C) an acceleration of efforts to recover and control so-called ''orphaned'' radiological sources.

(3) The program under paragraph (1) shall be known as the Radiological Dispersal Device Protection, Control, and Accounting program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Energy to carry out activities under this section amounts as follows:

(1) For fiscal year 2003, $10,000,000.

(2) For each fiscal year after fiscal year 2003, such sums as may be necessary in such fiscal year.

SEC. 6. ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation, and any other nation that possesses highly enriched uranium, options for blending such uranium so that the concentration of U–235 in such uranium is below 20 percent.

(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

(A) additional facilities for the blending of highly enriched uranium; and

(B) additional centralized secure storage facilities for highly enriched uranium, as so blended.

(b) INCENTIVES REGARDING HIGHLY ENRICHED URANIUM IN RUSSIA.—As part of the options pursued under subsection (a) with the Russian Federation, the Secretary may provide financial and other incentives for the removal of all highly enriched uranium from any particular facility in the Russian Federation if the Secretary determines that such incentives will facilitate the consolidation of highly enriched uranium in the Russian Federation to the best-secured facilities.

(c) CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.—Nothing in this section may be construed as terminating, modifying, or otherwise effecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

(d) PRIORITY IN BLENDING ACTIVITIES.—In pursuing options under this section, the Secretary shall give priority to the blending of highly enriched uranium from weapons, though highly enriched uranium from sources other than weapons may also be blended.

(e) TRANSFER OF HIGHLY ENRICHED URANIUM AND PLUTONIUM TO UNITED STATES.—(1) As part of the program under subsection (a), the Secretary may, upon the request of any nation—

(A) purchase highly enriched uranium or weapons grade plutonium from the nation at a price determined by the Secretary;

(B) transport any uranium or plutonium so purchased to the United States; and

(C) store any uranium or plutonium so transported in the United States.

(2) The Secretary is not required to blend any highly enriched uranium purchased under paragraph (1)(A) in order to reduce the concentration of U–235 in such uranium to below 20 percent. Amounts authorized to be appropriated by subsection (m) may not be used for purposes of blending such uranium.

(f) TRANSFER OF HIGHLY ENRICHED URANIUM TO RUSSIA.—(1) As part of the program under subsection (a), the Secretary may encourage nations with highly enriched uranium to transfer such uranium to the Russian Federation for disposition under this section.

(2) The Secretary shall pay any nation that transfers highly enriched uranium to the Russian Federation under this subsection an amount determined appropriate by the Secretary.

(3) The Secretary shall bear the cost of any blending and storage of uranium transferred to the Russian Federation under this subsection, including any costs of blending and storage under a contract under subsection (g).

(g) CONTRACTS FOR BLENDING AND STORAGE OF HIGHLY ENRICHED URANIUM IN RUSSIA.—As part of the program under subsection (a), the Secretary may enter into one or more contracts with the Russian Federation—

(1) to blend in the Russian Federation highly enriched uranium of the Russian Federation and highly enriched uranium transferred to the Russian Federation under subsection (f); or

(2) to store the blended material in the Russian Federation.

(h) LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.—Uranium blended under this section may not be released for sale until the earlier of—

(1) January 1, 2014; or

(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining industry in the United States.

(i) PROCEEDS OF SALE OF URANIUM BLENDED BY RUSSIA.—Upon the sale by the Russian Federation of uranium blended under this section by the Russian Federation, the Secretary may elect to receive from the proceeds of such sale an amount not to exceed 75 percent of the costs incurred by the Department of Energy under subsections (b), (f), and (g).

(j) REPORT ON STATUS OF PROGRAM.—Not later than July 1, 2003, the Secretary shall submit to Congress a report on the status of the program carried out under the authority in subsection (a). The report shall include—

(1) a description of international interest in the program;

(2) schedules and operational details of the program; and

(3) recommendations for future funding for the program.

(k) DISPOSITION OF PLUTONIUM IN RUSSIA.—(1) The Secretary may assist the Russian Federation in any fiscal year with the plutonium disposition program of the Russian Federation (as established under the agreement referred to in paragraph (2)) if the President certifies to Congress at the beginning of such fiscal year that the United States and the Russian Federation have entered into a binding agreement on the disposition of the weapons grade plutonium of the Russian Federation.

(2) The agreement referred to in this paragraph is the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Management and Disposition of Plutonium Designated As No Longer Required For Defense Purposes and Related Cooperation, signed August 29, 2000, and September 1, 2000.

(3) The program under paragraph (1)—

(A) shall include transparent verifiable steps;

(B) shall proceed at roughly the rate of the United States program for the disposition of plutonium;

(C) shall provide for cost-sharing among a variety of countries;

(D) shall provide for contributions by the Russian Federation;

(E) shall include steps over the near term to provide high confidence that the schedules for the disposition of plutonium of the Russian Federation will be achieved; and

(F) may include research on more speculative long-term options for the future disposition of the plutonium of the Russian Federation in addition to the near-term steps under subparagraph (E).

(l) HIGHLY ENRICHED URANIUM DEFINED.—In this section, the term ''highly enriched uranium'' means uranium with a concentration of U–235 of 20 percent or more.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Energy to carry out activities under this section amounts as follows:

(1) For fiscal year 2003—

(A) for activities under subsections (a) through (i), $100,000,000; and

(B) for activities under subsection (k), $200,000,000.

(2) For each fiscal year after fiscal year 2003, such sums as may be necessary in such fiscal year for activities under subsection (a) through (i).

SEC. 7. STRENGTHENED INTERNATIONAL SAFEGUARDS FOR NUCLEAR MATERIALS AND SAFETY FOR NUCLEAR OPERATIONS.

(a) REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SAFEGUARDS AND SAFETY.—(1) Not later than 180 days after the date of the enactment of this Act, the Administrator for Nuclear Security shall submit to Congress a report on options for an international program to develop strengthened safeguards for all nuclear materials and safety for nuclear operations.

(2) Each option for an international program under paragraph (1) may provide that the program is jointly led by the United States, the Russian Federation, and the International Atomic Energy Agency.

(3) The Administrator shall include with the report on options for an international program under paragraph (1) a description and assessment of various management alternatives for the international program. If any option requires Federal funding or legislation to implement, the report shall also include recommendations for such funding or legislation, as the case may be.

(b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION RESISTANT NUCLEAR TECHNOLOGIES.—The Administrator shall pursue with the Russian Federation joint programs between the United States and the Russian Federation on proliferation resistant nuclear technologies.

(c) PARTICIPATION OF OFFICE OF NUCLEAR ENERGY SCIENCE.—The Administrator shall consult with the Office of Nuclear Energy Science and Technology of the Department of Energy in the development of options under subsection (a) and joint programs under (b).

(d) PARTICIPATION OF INTERNATIONAL TECHNICAL EXPERTS.—In developing options under subsection (a), the Administrator shall, in consultation with the Russian Federation and the International Atomic Energy Agency, convene and consult with an appropriate group of international technical experts on the development of various options for technologies to provide strengthened safeguards for nuclear materials and safety for nuclear operations, including the implementation of such options.

(e) ASSISTANCE REGARDING HOSTILE INSIDERS AND AIRCRAFT IMPACTS.—(1) The Secretary of Energy may, utilizing appropriate expertise of the Department of Energy, provide assistance to nuclear facilities abroad on the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

(2) The Secretary may carry out a joint program with the Russian Federation and other countries to address and mitigate concerns on the impact of aircraft with nuclear facilities in such countries.

(f) ASSISTANCE TO IAEA IN STRENGTHENING INTERNATIONAL NUCLEAR SAFEGUARDS.—The Secretary may expand and accelerate the programs of the Department of Energy to support the International Atomic Energy Agency in strengthening international nuclear safeguards.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Energy to carry out activities under this section amounts as follows:

(1) For fiscal year 2003—

(A) for activities under subsections (a) through (e), $20,000,000, of which $5,000,000 shall be available for sabotage protection for nuclear power plants and other nuclear facilities abroad; and

(B) for activities under subsection (f), $30,000,000.

(2) For each fiscal year after fiscal year 2003, such sums as may be necessary in such fiscal year.

SEC. 8. EXPORT CONTROL PROGRAMS.

(a) AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.—The Secretary of Energy may pursue in the former Soviet Union and other regions of concern, principally in South Asia, the Middle East, and the Far East, options for accelerating programs that assist countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Energy to carry out activities under this section amounts as follows:

(1) For fiscal year 2003, $5,000,000.

(2) For each fiscal year after fiscal year 2003, such sums as may be necessary in such fiscal year.

SEC. 9. IMPROVEMENTS TO NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE RUSSIAN FEDERATION.

(a) REVISED FOCUS FOR PROGRAM.—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to update and improve the Joint Action Plan for the Materials Protection, Control, and Accounting programs of the Department and the Russian Federation Ministry of Atomic Energy.

(2) The updated plan shall shift the focus of the upgrades of the nuclear materials protection, control, and accounting program of the Russian Federation in order to assist the Russian Federation in achieving, as soon as practicable but not later than January 1, 2012, a sustainable safeguards system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(b) PACE OF PROGRAM.—The Secretary shall work with the Russian Federation, including applicable institutes in Russia, to pursue acceleration of the nuclear materials protection, control, and accounting programs at nuclear defense facilities in the Russian Federation.

(c) TRANSPARENCY OF PROGRAM.—(1) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(2) The alternatives identified under paragraph (1) may not include full intrusive access to sensitive facilities in the Russian Federation.

(d) SENSE OF CONGRESS.—In furtherance of the activities required under this section, it is the sense of Congress the Secretary should—

(1) improve the partnership with the Russian Ministry of Atomic Energy in order to enhance the pace and effectiveness of nuclear materials safeguards at facilities in the Russian Federation, including serial production enterprises; and

(2) clearly identify the assistance required by the Russian Federation, the contributions anticipated from the Russian Federation, and the transparency milestones that can be used to assess progress in meeting the requirements of this section.

SEC. 10. COMPREHENSIVE ANNUAL REPORT TO CONGRESS OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public

Law 107–107; 115 Stat. 1247) is amended by adding at the end the following new subsection:

''(d) ANNUAL REPORT ON IMPLEMENTATION OF PLAN.—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

''(2) Each report under paragraph (1) shall include—

''(A) a discussion of any progress made during the year covered by such report in the matters of the plan required by subsection (a);

''(B) a discussion of any consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

''(C) a discussion of any cooperation and coordination during such year in the implementation of the plan between the United States and private entities that share objectives similar to the objectives of the plan; and

''(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programs carried out during such year in the implementation of the plan.''.

SEC. 11. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF ANTITERRORISM ACTIVITIES.

(a) AGENCIES AS JOINT SPONSORS OF LABORATORIES FOR WORK ON ANTITERRORISM.—Each department or agency of the Federal Government, or of a State or local government, that carries out work on antiterrorism activities at a Department of Energy national laboratory shall be a joint sponsor, under a multiple agency sponsorship arrangement with the Department, of such laboratory in the performance of such work.

(b) AGENCIES AS JOINT SPONSORS OF SITES FOR WORK ON ANTITERRORISM.—Each department or agency of the Federal Government, or of a State or local government, that carries out work on antiterrorism activities at a Department site shall be a joint sponsor of such site in the performance of such work as if such site were a federally funded research and development center and such work were performed under a multiple agency sponsorship arrangement with the Department.

(c) PRIMARY SPONSORSHIP.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement required under subsection (a) or (b).

(d) WORK.—(1) The Administrator for Nuclear Security shall act as the lead agent in coordinating the submittal to a Department national laboratory or site of requests for work on antiterrorism matters by departments and agencies that are joint sponsors of such national laboratory or center, as the case may be, under this section.

(2) A request for work may not be submitted to a national laboratory or site under this section unless approved in advance by the Administrator.

(3) Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017(a)(4) of the Federal Acquisition Regulation.

(4) The Administrator shall ensure that the work of a national laboratory or site requested under this section is performed expeditiously and to the satisfaction of the head of the department or agency submitting the request.

(e) FUNDING.—(1) Subject to paragraph (2), a joint sponsor of a national laboratory or site under this section shall provide funds for work of such center or site, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such center under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subsection (b).

(2) The total amount of funds provided a national laboratory or site in a fiscal year under this subsection by joint sponsors other than the Department of Energy shall not exceed an amount equal to 25 percent of the total funds provided such center or site, as the case may be, in such fiscal year from all sources.

Mr. BIDEN. Mr. President, the world is a dangerous place, and the United States is not immune to those dangers. In just the last few days, we have heard warnings that suicide bombers will mount attacks in the United States and that terrorist groups will inevitably obtain weapons of mass destruction from rogue states.

My own greatest concern is that rogue states or terrorist groups may obtain nuclear weapons, or the means to produce them, from the former Soviet Union, where less-than-adequate security and under-employed weapons scientists coexist with the world's largest stockpile of excess fissile material. We know that both rogues and terrorists are attempting to exploit the instability in that region in order to gain weapons of mass destruction.

Some Russians have been caught stealing radioactive, or even fissile, material. And witnesses at two Foreign Relations Committee hearings warned that even modestly capable terrorists could convert stolen highly enriched uranium into enormously destructive improvised nuclear devices.

But I do not share the view that proliferation of nuclear weapons is inevitable. The United States has had real successes in nuclear nonproliferation and there is every reason to think that we can build on that record.

Thanks to the Nunn-Lugar Cooperative Threat Reduction program, the countries of Belarus, Kazakhstan and Ukraine gave up their nuclear weapons.

Thanks to the Materials Protection, Control and Accounting program, many Russian facilities have improved their security for fissile materiel.

Thanks to our fissile material disposition programs, the United States and Russia will each demilitarize 34 metric tons of excess plutonium, and Russia will downblended 500 metric tons of high-enriched uranium into low-enriched fuel for nuclear power reactors.

Thanks to several U.S. programs, thousands of under-employed weapons scientists in the former Soviet Union have obtained at least part-time employment in new, socially useful endeavors.

These programs point the way to how we can speed up the day when rogue states and terrorists will find the doors closed to them when they seek dangerous materials or technology from the former Soviet Union. The administration told many months to review these programs last year, but that review led it to the absolutely correct conclusions that the programs are vital to our national security and that nearly all of them should be expanded. The problem now is that we are still not doing nearly enough. The President's budget request for fiscal year 2003 would maintain our nonproliferation assistance programs, but not significantly increase them.

The Nuclear Nonproliferation Act of 2002 takes important steps to expand these programs, and I am proud to cosponsor this legislation. Senator DOMENICI to be both commended and supported for drafting this bill. I am also delighted to be joined by Senators LUGAR and HAGEL from the Foreign Relations Committee, Senators LANDRIEU and BINGAMAN from the Armed Services Committee, and Senator MURKOWSKI, who has paid particular attention to Russian nuclear problems.

The Nuclear Nonproliferation Act of 2002 will lead to greater levels of effort—and, I believe, greater levels of achievement—in several areas. For example, it authorizes $40 million for a new research, development, and demonstration program to help respond to nuclear or radiological terrorism. Some of these funds would also help other nations to better regulate the protection and control of radiological sources, to prevent any diversion to terrorists. Some of the funds will go to new technologies to detect radioactive and fissile materials being smuggled into the United States. And some will support work with the International Atomic Energy Agency to improve international safeguards for nuclear materials and operations.

It authorizes up to $300 million to accelerate and expand current programs to blend down highly enriched uranium (HEU) into reactorgrade material which cannot explode and to dispose of plutonium in Russia. This provision also allows for HEU purchases from other countries.

It authorizes $20 million for work with the international community to develop options for a global program for international safeguards, nuclear safety and proliferation-resistant nuclear technologies. This includes efforts to improve sabotage protection for nuclear power plants and other nuclear facilities overseas.

These are sensible proposals, and very sensibly priced when one considers the magnitude of the threat that they address. Former Senator Howard Baker and former White House Counsel Lloyd Cutler called on us last year to devote at least $3,000,000,000 dollars a year to this effort. Even with last year's congressionally-mandated budget increases and even with this fine bill, we will achieve less than two-thirds of that objective.

But these are important steps, ones that have been vetted with experts inside and outside our government. They

deserve the support of all of us, and they will help build a safer world for our children and grandchildren.

By Mr. THURMOND:

S. 2546. A bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; to the Committee on Armed Services.

Mr. THURMOND. Mr. President, I rise today to express my disappointment in the decision announced yesterday by the Department of Transportation against allowing airline pilots to carry firearms during the performance of their duties. Today I am introducing legislation which would overturn that decision and require the Transportation Security Administration to establish a program to permit pilots to defend their aircraft against acts of criminal violence or air piracy. This legislation will provide a critical last line of defense to secure commercial aircraft.

This bill I am introducing today is identical to a bill in the House of Representatives, H.R. 4635, introduced by Mr. YOUNG of Alaska and Mr. MICA of Florida. The legislation requires the Under Secretary of Transportation for Security to establish a program not later than 90 days after the date of enactment to deputize qualified volunteer pilots as Federal law enforcement officers to defend the cockpits of commercial aircraft in flight against acts of criminal violence or air piracy. Pilots who are deputized will be known as ''Federal Flight Deck Officers'' and will be authorized to carry a firearm and use force, including deadly force, against an individual in defense of an aircraft.

Under the bill, a qualified pilot is a pilot that is employed by an air carrier, has demonstrated to the satisfaction of the Under Secretary fitness to be a Federal Flight Deck Officer, and has been the subject of an employment investigation, including a criminal history record check.

Not later than 120 days after the date of enactment, the Under Secretary shall deputize 500 qualified pilots who are former military or law enforcement personnel. Not later than 24 months after the date of enactment, the Under Secretary shall deputize any qualified pilot. The Federal Government will provide training, supervision and equipment at no expense to the pilot or air carrier. Pilots participating in this program will not be eligible to receive compensation for services. The legislation protects volunteer pilots and their employers against liability from damages resulting from participation in the program.

The Department of Transportation has taken important steps to improve the security of our airports and protect the flying public. However, September 11 demonstrated our enemies will stop at nothing to inflict harm on Americans and destroy our way of life. Our response must be equally as determined and resolute. We must not take half measures or engage in wishful thinking. We must not refrain from utilizing every tool we possess. We must enable those who pilot commercial passenger aircraft to defend against any threat and protect the safety of their aircraft and passengers. And finally, we must do so without further delay. I hope the Senate responds quickly to this important matter.

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. 2546

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 ''Arming Pilots Against Terrorism Act''.

SEC. 2. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security shall establish a program to deputize qualified volunteer pilots of passenger aircraft as Federal law enforcement officers to defend the flight decks of aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

''(b) QUALIFIED PILOT.—Under the program, a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

''(1) is employed by an air carrier;

''(2) has demonstrated to the satisfaction of the Under Secretary fitness to be a Federal flight deck officer under the program; and

''(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary shall deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

''(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

''(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

''(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary shall authorize a Federal flight deck officer under this section to carry a firearm while engaged in providing air transportation or intrastate air transportation.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of an aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

''(j) PILOT DEFINED.—The term 'pilot' means an individual responsible for the operation of aircraft.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

''44921. Federal flight deck officer program.''.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking ''and'' at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding at the end the following:

''(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.''.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

By Mr. BINGAMAN (for himself and Ms. SNOWE):

S. 2547. A bill to amend title XVIII of the Social Security Act to provide for fair payments under the Medicare hospital outpatient department prospective payment system; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with Senator SNOWE to introduce legislation entitled the ''Medicare Hospital Outpatient Department Fair Payment Act of 2002'' to improve Medicare payments for hospital outpatient department services.

According to the Medicare Payment Advisory Commission, or MedPAC, in its report to Congress this past March. ''We estimate that the aggregate Medicare margin for outpatient services

will be −16.3 percent in 2002. Unfortunately, while the Medicare outpatient prospective payment system, or OPPS, was created to give providers incentives to deliver quality outpatient care and services in an efficient manner, OPPS reimbursement rates have been set at a level substantially below what is costs hospitals to care for Medicare patients. That is an unsustainable burden for our Nation's hospitals.

This problem is especially acute in rural areas. According to the Medicare Payment Advisory Commission's June 2001 report entitled ''Report to Congress: Medicare in Rural America,'' outpatient costs represent 21.8 percent of total Medicare costs in rural hospitals compared to 16.1 percent in urban hospitals. As MedPAC concludes, ''Given their greater reliance on Medicare and on outpatient services within Medicare, rural hospitals have more at stake than their urban counterparts in the move to the outpatient PPS.''

In addition, Medicare's payment policy of paying less than cost creates inappropriate incentives for providers to provide services in the setting that receives the most favorable payment rather than the one best suited for the patient. Medicare policy should seek, as best as possible, to pay appropriate amounts to ensure access to care for Medicare beneficiaries in appropriate settings, whether in inpatient hospitals, outpatient care, ambulatory surgical centers, or physician offices.

To provide just one example, the following are the current payment rates for mammography in either a outpatient hospital setting of a physician's office: for unilateral diagnostic mammography, the OPPS payment is $30.54 compared to $38.01 in a physician's office; for bilateral diagnostic mammography, the OPPS payment is again $30.54 compared to an even higher $46.06 in a physician's office; for unilateral digital mammography, OPPS payment just increased to $75.00 compared to $71.31 in a physician's office; and finally, for bilateral digital mammography, the OPPS payment is $75.00 compared to $88.33 in a physician's office.

Why does Medicare pay between 24 percent to 54 percent more for a diagnostic mammography in a physician's office than in an outpatient hospital setting? Such disparities are unjustified and they are even worse for other Medicare services.

To address these problems, the ''Medicare Hospital Outpatient Fair Payment Act of 2002'' would: increase extremely underfunded emergency room and clinic ambulatory payment classifications, or APC, payment rates in the OPPS system by 10 percent and require an increase in overall outpatient department payments to be adjusted to 90 percent of overall costs, from the current 84 percent; and improve and extend transitional corridor or ''hold harmless'' payments to rural hospitals, cancer hospitals, and children's hospitals, and extend the transitional payments to designated eye and ear speciality hospitals.

The first provision would increase funding overall through the outpatient hospital system from 84 percent of cost to 90 percent of cost, still 10 percent less than the hospitals spend in delivering necessary outpatient care, with special focus and priority on payments for emergency room and clinic payments, prevention services, cancer services, and to reduce the disparity between payments in outpatient and alternative settings.

The extension of the transitional corridors or hold harmless payments to rural, cancer, and children's hospitals addresses the particular problems those hospitals are facing with the OPPS system and adds designated eye and ear speciality hospitals. With regard to rural hospitals, MedPAC recommended that due to the higher unit costs and a greater percentage of care delivered in rural outpatient settings in its June 2001 report entitled ''Report to the Congress: Medicare in Rural America,'' that the data ''supports the need for the existing hold-harmless policy'' for rural hospitals.

Without the transitional corridor payments to rural hospitals, rural hospitals would be expected to be significant losers, according to MedPAC data. As MedPAC states, ''Small rural hospitals were protected to more negatively affected, with those under 50 beds, about 50 percent of rural hospitals, losing 8.5 percent and those with 50–99 beds losing 2.7 percent.'' Even with the transitional corridor and hold-harmless payments, rural hospitals are still projected to have negative margins of 13.7 percent with respect to outpatient care.

The legislation also addresses problems created by the Balanced Budget Refinement Act of 1999, or BBRA, which established temporary additional Medicare payments, or transitional pass-through payments, for certain innovative medical devices, drugs, and biologics. By establishing the pass-through payments, Congress ensured Medicare beneficiaries would have access to the latest medical technologies. These pass-through payments were capped at 2.5 percent of total outpatient payments prior to 2004, and the Centers for Medicare and Medicaid Services, or CMS, is required by law to make a proportional reduction for all pass-through payments if that cap is exceeded.

In March 2002, CMS announced a reduction in pass-through payments of 63.6 percent. This reduction means that a pass-through payment of $1,000 is reduced to just $364. Again, hospitals cannot continue to provide needed services to beneficiaries with reductions of such a magnitude.

To prevent an event greater reduction in pass-through payments, CMS ''folded-in'' a significant portion of costs of these new technologies into the base APCs. However, because the law requires that these changes are made in a budget-neutral manner, this resulted in a substantial reduction in payments for standard outpatient services that do not rely upon high-tech medical devices. In 2002, incorporating 75 percent of device costs into the APCs led to a budget-neutrality adjustment of −7.2 percent, causing the substantial reduction in the OPPS fee schedule amounts.

As MedPAC notes, ''If pass-through items are overused and overpaid, APCs that include these technologies will be relatively overpaid while APCs that do not will be underpaid. This process also will have inappropriate distributional effects among hospitals if some hospitals provide more services that use pass-through technologies than others.'' For example, rural hospitals tend to provide a greater proportion of more basic Services, emergency care services, and fewer services that require advanced technology, according to MedPAC. These are the services particularly hard hit by the budget neutrality provision, and yet, they are certainly not any less expensive than they were last year.

To address these problems with Medicare's pass-through payment system, the bill would: limit the pro-rata reduction in pass-through to 20 percent; and limit the budget neutrality adjustment to no more than 2.0 percent annually.

For New Mexico, the importance of this legislation cannot be overstated. In 2000, New Mexico had over 3.1 million outpatient visits by Medicare beneficiaries for important health concerns. This includes essential services such as diagnostic tests, clinic visits, emergency care treatment, chemotherapy, and surgery. In addition, according to estimates from the American Hospital Association, the impact of this legislation to New Mexico hospitals would be an increase in Medicare payments between $48 and $59 million over the next five years.

For an industry attemtping to survive cuts to payments from the private sector, Medicare and Medicaid, while also dealing with the Nation's highest percentage of uninsured patients in the country. This legislation is both timely and necessary. It is unjustifiable for Medicare to continue to pay just 84 percent of the cost of care of Medicare beneficiaries.

The bottom line is that this bipartisan legislation will ensure our nation's hospitals a more rationale, fair, and equitable payment system for services delivered to Medicare beneficiaries in an outpatient setting.

I ask unanimous consent for the text of the bill and a copy of a letter to support from AHA to be printed in the RECORD.

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

S. 2457

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Hospital Outpatient Department Fair Payment Act of 2002''.

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

SEC. 2. ENSURING ADEQUATE OPD FEE SCHEDULE AMOUNTS FOR CLINIC AND EMERGENCY VISITS.

(a) IN GENERAL.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) is amended—

(1) in paragraph (3)(C)(ii)—

(A) by striking ''paragraph (8)(B)'' and inserting ''paragraphs (11)(B) and (13)(A)(i)''; and

(B) by striking ''clause (iii)'' and inserting ''clause (iv)'';

(2) in paragraph (3)(C)(iii), by inserting '', paragraph (11)(B), or paragraph (13)(B)'' after ''this subparagraph'';

(3) in paragraph (3)(D)—

(A) in clause (i), by striking ''conversion factor computed under subparagraph (C) for the year'' and inserting ''applicable conversion factor computed under subparagraph (C), paragraph (11)(B), or paragraph (13)(B) for the year (or portion thereof)''; and

(B) in clause (ii), by inserting '', paragraph (9)(A), or paragraph (13)(C)'' after ''paragraph (2)(C)'';

(4) in paragraph (9), by striking subparagraph (B) and inserting the following new subparagraph:

''(B) BUDGET NEUTRALITY ADJUSTMENT.—

''(i) IN GENERAL.—If the Secretary makes revisions under subparagraph (A), then the revisions for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part (including expenditures attributable to the special rules specified in paragraph (13)) that would have been made if the revisions had not been made.

''(ii) EXEMPTION FROM REDUCTION.—The relative payment weights determined under paragraph (13)(C) and the conversion factor computed under paragraph (13)(B) shall not be reduced by any budget neutrality adjustment made pursuant to this subparagraph.''; and

(5) by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

''(13) SPECIAL RULES FOR CALCULATING MEDICARE OPD FEE SCHEDULE AMOUNT FOR CLINIC AND EMERGENCY VISITS.—

''(A) IN GENERAL.—In computing the medicare OPD fee schedule amount under paragraph (3)(D) for covered OPD services that are furnished on or after April 1, 2002, and classified within a group established or revised under paragraph (2)(B) or (9)(A), respectively, for clinic or emergency visits (as described in subparagraph (D)), the Secretary shall—

''(i) substitute for the conversion factor calculated under paragraph (3)(C) the conversion factor calculated under subparagraph (B); and

''(ii) substitute for the relative payment weight established or revised under paragraph (2)(C) or (9)(A), respectively, the relative payment weight determined under subparagraph (C) for such group.

''(B) CALCULATION OF CONVERSION FACTOR.—For purposes of subparagraph (A)(i), the conversion factor calculated under this subparagraph is—

''(i) for services furnished on or after April 1, 2002, and before January 1, 2003, an amount equal to 112.82 percent of the conversion factor specified for such period in the final rule published on March 1, 2002 (67 Fed. Reg. 9556 et seq.; entitled 'Medicare Program; Correction of Certain Calendar Year 2002 Payment Rates Under the Hospital Outpatient Prospective Payment System and the Pro Rata Reduction on Transitional Pass-Through Payments; Correction of Technical and Typographical Errors') and not taking into account any subsequent amendments to such final rule; and

''(ii) for services furnished in a year beginning after December 31, 2002, the conversion factor computed under this subparagraph for the previous year (or in the case of 2003, for the previous 9 months) increased by the OPD fee schedule increase factor specified under paragraph (3)(C)(iv) for the year involved.

''(C) DETERMINATION OF RELATIVE PAYMENT WEIGHTS.—For purposes of subparagraph (A)(ii), the relative payment weight determined under this subparagraph for a covered OPD service that is classified within such a group is—

''(i) for services furnished on or after April 1, 2002, and before January 1, 2003, the relative payment weight specified for such group for such period in Addendum A of the final rule published on March 1, 2002 (67 Fed. Reg. 9556 et seq.; entitled 'Medicare Program; Correction of Certain Calendar Year 2002 Payment Rates Under the Hospital Outpatient Prospective Payment System and the Pro Rata Reduction on Transitional Pass-Through Payments; Correction of Technical and Typographical Errors') and not taking into account any subsequent amendments to such final rule; and

''(ii) for services furnished in a year beginning on or after January 1, 2003—

''(I) for ambulatory patient classification group 0601 (relating to mid-level clinic visits), or a successor to such group, the relative payment weight specified for such group in the final rule referred to in clause (i); and

''(II) other ambulatory patient classification groups described in subparagraph (D), the relative payment weight established or revised under paragraph (2)(C) or (9)(A), respectively, for such group for such year (but without regard to any budget neutrality adjustment under paragraph (9)(B)).

''(D) GROUPS FOR CLINIC AND EMERGENCY VISITS.—For purposes of this paragraph, the groups established or revised under paragraph (2)(B) or (9)(A), respectively, for clinic and emergency visits are ambulatory patient classification groups 0600, 0601, 0602, 0610, 0611, and 0612 as defined for purposes of the final rule referred to in subparagraph (C)(i) (and any successors to such groups).''.

(b) LIMITATION ON SECRETARIAL AUTHORITY.—Notwithstanding section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)), the Secretary of Health and Human Services may not make any adjustment under—

(1) paragraph (2)(F), (3)(C)(iii), (9)(B), or (9)(C) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)); or

(2) any other provision of such section;

to ensure that the amendments made by subsection (a) do not cause the estimated amount of expenditures under part B of title XVIII of such Act (42 U.S.C. 1395j et seq.) to exceed the estimated amount of expenditures that would have been made under such part but for such amendments.

(c) PERIODIC LUMP-SUM RETROACTIVE PAYMENTS.—The Secretary of Health and Human Services shall, not later than 60 days after the date of enactment of this Act (and at least every 90 days thereafter until the amendments made by subsection (a) are implemented)—

(1) estimate, for each hospital furnishing services for which payment may be made under section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) on or after April 1, 2002—

(A) the total amount of additional payments under such section that would have been made to such hospital as of the date of such estimate if such amendments had been implemented as of such date; and

(B) the total amount of additional payments under such section that have actually been made to such hospital as of the date of such estimate (including any amounts paid pursuant to this subsection); and

(2) make a lump-sum payment to such hospital equal to the amount by which the amount estimated under paragraph (1)(A) exceeds the amount estimated under paragraph (1)(B).

SEC. 3. LIMITATION OF PRO RATA REDUCTIONS TO PASS-THROUGH PAYMENTS.

(a) IN GENERAL.—Section 1833(t)(6)(E) of the Social Security Act (42 U.S.C. 1395*l*(t)(6)(E)) is amended—

(1) in clause (i), by striking ''The total'' and inserting ''Subject to clause (iv), the total'';

(2) in clause (iii), by striking ''If the Secretary'' and inserting ''Subject to clause (iv), if the Secretary''; and

(3) by adding at the end the following new clause:

''(iv) LIMITATION ON PRO RATA REDUCTIONS.—Notwithstanding clauses (i), (ii), and (iii), the Secretary may not reduce the additional payments that would otherwise be made under this paragraph (but for this subparagraph) for items and services furnished on or after April 1, 2002, by a percentage that exceeds 20.0 percent.''.

(b) PERIODIC LUMP-SUM RETROACTIVE PAYMENTS.—The Secretary of Health and Human Services shall, not later than 60 days after the date of enactment of this Act (and at least every 90 days thereafter until clause (iv) of section 1833(t)(6)(E) of the Social Security Act (as added by subsection (a)(3)) is implemented)—

(1) estimate, for each hospital furnishing services for which payment may be made under section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) on or after April 1, 2002—

(A) the total amount of additional payments under paragraph (6) of such section that would have been made to such hospital as of the date of such estimate if such clause had been implemented as of such date; and

(B) the total amount of additional payments under such paragraph that have actually been made to such hospital as of the date of such estimate (including any amounts paid pursuant to this subsection); and

(2) make a lump-sum payment to such hospital equal to the amount by which the amount estimated under paragraph (1)(A) exceeds the amount estimated under paragraph (1)(B).

SEC. 4. CLARIFYING APPLICATION OF OPD FEE SCHEDULE INCREASE FACTOR.

Section 1833(t)(3)(C)(iv) of the Social Security Act (42 U.S.C. 1395*l*(t)(3)(C)(iv)) is amended by adding at the end the following new sentence: ''Effective for years beginning

with 2002, the OPD fee schedule increase factor for a year shall take effect on January 1 of such year, and nothing in this subsection shall be construed as authorizing the Secretary to delay the date on which such increase factor takes effect by reason of any delay in implementing the revisions authorized by paragraph (9)(A) for such year or for any other reason.''.

SEC. 5. LIMITATION ON BUDGET NEUTRALITY ADJUSTMENT FOR ANNUAL REVISIONS TO SYSTEM COMPONENTS.

Section 1833(t)(9)(B) of the Social Security Act (42 U.S.C. 1395*l*(t)(9)(B)), as amended by section 2(a)(4), is amended—

(1) in clause (i), by striking ''If the Secretary'' and inserting ''Subject to clause (iii), if the Secretary''; and

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

''(iii) LIMITATION ON ADJUSTMENT.—For years after 2001, the budget neutrality adjustment under this subparagraph may not reduce the payments that would otherwise be made under this part but for this subparagraph by more than 2.0 percent.''.

SEC. 6. OUTLIER PAYMENTS.

Section 1833(t)(5) of the Social Security Act (42 U.S.C. 1395*l*(t)(5)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking ''exceed the applicable'' and inserting ''exceed a percentage specified by the Secretary that is not less than the applicable minimum percentage or greater than the applicable maximum''; and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) APPLICABLE PERCENTAGES.—For purposes of clause (i)—

''(I) the term 'applicable minimum percentage' for a year means zero percent for years before 2003 and 2.0 percent for years after 2002; and

''(II) the term 'applicable maximum percentage' for a year means 2.5 percent for years before 2003 and 3.0 percent for years after 2002.''; and

(2) in subparagraph (D)—

(A) in the heading, by striking ''TRANSITIONAL AUTHORITY'' and inserting ''FLEXIBILITY''; and

(B) in the matter preceding clause (i), by striking ''for covered OPD services furnished before January 1, 2002,''.

SEC. 7. ADJUSTMENT TO LIMIT DECLINE IN PAYMENT.

Section 1833(t)(7) of the Social Security Act (42 U.S.C. 1395*l*(t)(7)) is amended—

(1) in the heading, by striking ''TRANSITIONAL ADJUSTMENT'' and inserting ''ADJUSTMENT'';

(2) in subparagraph (A)—

(A) in the heading, by striking ''BEFORE 2002'' and inserting ''IN GENERAL'';

(B) in the matter preceding clause (i)—

(i) by striking ''subparagraph (D)'' and inserting ''subparagraph (B)'';

(ii) by striking ''furnished before January 1, 2002,''; and

(iii) by striking ''subparagraph (E)'' and inserting ''subparagraph (C)''; and

(C) in clause (i), by striking ''subparagraph (F)'' and inserting ''subparagraph (D)'';

(3) by striking subparagraph (D) and inserting the following new subparagraph:

''(D) HOLD HARMLESS PROVISIONS.—

''(i) CANCER, CHILDREN'S, AND SMALL RURAL HOSPITALS.—In the case of a hospital that is described in clause (iii) or (v) of section 1886(d)(1)(B) or is located in a rural area and has not more than 100 beds, for covered OPD services—

''(I) that are furnished on or after the date on which payment is first made under this subsection; and

''(II) for which the PPS amount is less than the pre-BBA amount (or for services furnished on or after January 1, 2002, is less than the greater of the pre-BBA amount or the reasonable costs incurred in furnishing such services),

the amount of payment under this subsection shall be increased by the amount of such difference.

''(ii) EYE AND EAR HOSPITALS.—In the case of a hospital or unit described in subsection (i)(4), for covered OPD services—

''(I) that are furnished on or after January 1, 2002; and

''(II) for which the PPS amount is less than the greater of the base year amount (which for purposes of this subparagraph shall be determined in the same manner as the pre-BBA amount under subparagraph (D), except that clause (ii)(I) of such subparagraph shall be applied by substituting '2001' for '1996') or the reasonable costs incurred in furnishing such services,

the amount of payment under this subsection shall be increased by the amount of such difference.'';

(4) in subparagraph (F)(ii)(I), by striking ''subparagraph (E)'' and inserting ''subparagraph (C)''; and

(5) by striking subparagraphs (B) and (C) and redesignating subparagraphs (D), (E), (F), (G), (H), and (I) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively.

SEC. 8. SPECIAL INCREASE IN CERTAIN RELATIVE PAYMENT WEIGHTS.

Section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) is amended—

(1) in paragraph (3)(D)(ii), as amended by section 2(a)(3)(B), by striking ''or paragraph (13)(C)'' and inserting ''paragraph (13)(C), or paragraph (14)'';

(2) in paragraph (9)(B)(i), as amended by section 2(a)(4), by inserting ''determined without regard to expenditures made by reason of the adjustments required by paragraph (14)'' after ''paragraph (13)'';

(3) in paragraph (12)(C), by striking ''paragraph (6)'' and inserting ''paragraph (9) (including adjustments authorized by paragraph (14))''; and

(4) by redesignating paragraph (14) (as redesignated by section 2(a)(5)) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

''(14) REQUIREMENT TO INCREASE RELATIVE PAYMENT WEIGHTS IN CERTAIN CIRCUMSTANCES.—

''(A) IN GENERAL.—Notwithstanding the methodologies specified for determining relative payment weights described in paragraphs (2)(C) and (9)(A), for years beginning with 2002, the Secretary shall, as part of the revisions required by paragraph (9)(A), increase the relative payment weight for any group established or revised under paragraph (2)(C) or (9)(A), respectively, above the weight that would otherwise apply to such group under this subsection if the Secretary determines that such an increase is necessary to ensure that the medicare OPD fee schedule amount for the group for the year is not less than 90 percent of the median costs for services classified within the group.

''(B) PRIORITIES.—For purposes of providing for increases under subparagraph (A), the Secretary shall give priority first to preventive services, second to cancer services, third to services for which the medicare OPD fee schedule amount that would otherwise apply is less the payment level under this title for such services in other settings, and fourth to other services.

''(C) DATA.—The Secretary may base increases under subparagraph (A) on data from any source and is not limited to data appropriate for estimating the costs incurred by hospitals in furnishing such services.

''(D) AGGREGATE EXPENDITURES.—Notwithstanding the application of the percentage specified under subparagraph (A), the Secretary shall provide for increases under such subparagraph for each year so that the estimated amount of additional expenditures attributable to adjustments under such subparagraph is not less than $1,000,000,000 in such year.''.

SEC. 9. PERMANENT EXTENSION OF PROVIDER-BASED STATUS.

Paragraphs (1) and (2) of section 404(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (113 Stat. 2763A–506), as enacted into law by section 1(a)(6) of Public Law 106–554, are each amended by striking ''until October 1, 2002''.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, May 22, 2002.

Hon. JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of our nearly 5,000 hospital, health care system, network and other health care provider members, the American Hospital Association is writing to express our strong support for the Medicare Hospital Outpatient Fair Payment Act of 2002 that you have introduced with Sen. Olympia Snowe (R-ME). We believe this bill is an essential component to ensuring that America's Medicare patients receive emergency care and outpatient services, and have equal access to the newest medical technologies.

As hospital care continues to shift to the outpatient setting, it is imperative that Congress begins to address the complex operational issues and payment inequities created by the outpatient prospective payment system (OPPS). While the OPPS was created to give providers incentives to deliver quality care in an efficient manner, outpatient payment rates were set at a level substantially below the costs hospitals incur caring for Medicare patients. Medicare currently pays hospitals only 84 cents for every dollar of outpatient care provided.

Your comprehensive legislation would address problems in the OPPS by extending and enhancing provisions that ensure patient care is not disrupted as hospitals transition into OPPS. We applaud your leadership on this important issue and support swift enactment of this legislation. We look forward to working with you further on this issue.

Sincerely,

RICK POLLACK,
Executive Vice President.

Ms. SNOWE. Mr. President, I am pleased to join with my colleague and good friend Senator BINGAMAN to introduce the Medicare Hospital Outpatient Fair Payment Act of 2002. We are introducing this bill because of the critical importance of outpatient health care services and the devastating impact that the substantial reduction in Medicare payments for outpatient services will have on the delivery of care. Our legislation will increase payment rates for outpatient care to adequate levels to ensure appropriate access to outpatient care for our Nation's seniors. In addition, since the implementation of the new outpatient prospective payment system in August 2000, it has become evident that changes are needed, and this legislation proposes important reforms that will make the system work better for Medicare and for our Nation's seniors.

Our Nation's seniors rely upon outpatient care delivered through the Medicare program. This is the result of trends in medical care that will continue to place a greater emphasis on

the outpatient setting. According to Medpac, the number of outpatient visits increased 73 percent during the 1990s and nearly 5 percent in 2001 alone. New technologies and advances in medicine have made it possible for more and more care to be provided on an outpatient basis, which eliminates the need for an overnight hospital stay. This reduces the cost of care and gets the patient home sooner where recovery can begin. This trend will continue and underscores the importance of having an appropriate Medicare payment system for outpatient care.

Without these vitally needed changes in the Medicare outpatient payment system, our medical care infrastructure will suffer and patient care will be harmed. This March, the Medicare Payment Advisory Commission, Medpac, estimated that the aggregate margin for outpatient services would be minus 16.3 percent in 2002.

Congress created temporary additional payments, or transitional ''pass-through'' payments, for certain innovative medical devices, drugs and biologicals in the Balanced Budget Refinement Act, BBRA, of 1999. By establishing the pass-through pool, Congress ensured Medicare beneficiaries would have access to the latest medical technologies. These pass-through payments were capped at 2.5 percent of total outpatient payments prior to 2004, and the Centers for Medicare & Medicaid Services, CMS, is required by law to make a proportional reduction for all pass-through payments if that cap is exceeded. In March 2002, CMS announced a dramatic reduction in pass-through payments of 63.6 percent.

CMS took steps to avoid even greater reductions in the pass through payments by incorporating 75 percent of the device costs into the base ambulatory payment classifications, APC, amounts. Due to a Congressionally-mandated requirement, CMS was required to make this adjustment on a budget neutral basis, with no recognition for the impact of this shift in payment. As a result, Medicare payments were shifted from low-tech services to high-tech services. In addition, incorporating 75 percent of device costs into the APCs led to a budget-neutrality adjustment of minus 7.2 percent, causing a substantial reduction in the OPPS fee schedule amounts for 2002.

These shifts in payments that resulted from actions Congress took in the BBRA are greater than intended when it was first enacted. It is clear that corrections to the system are needed. Ironically, if these problems with outpatient payments are not corrected, hospitals will be forced to admit patients into the hospital for treatment that could have been provided more efficiently on an outpatient basis.

To address these problems, we are introducing the Medicare Hospital Outpatient Fair Payment Act of 2002. This comprehensive legislation would address problems within the current Medicare hospital outpatient payment system. Specifically, it would address the problems outlined here by; increasing extremely underfunded emergency room and clinic ambulatory payment classifications, APC, rates by 10 percent and requiring an increase in overall outpatient payments to 90 percent of overall costs, still 10 percent less than hospitals spend in delivering necessary outpatient care, but an improvement on the current payment of just 84 percent of costs; limiting the pro rata reduction in pass-through payments to 20 percent; and limiting the budget neutrality adjustment to no more than 2.0 percent.

Furthermore, the bill improves and extends transitional corridor payments to rural hospitals, cancer hospitals, and children's hospitals, and extends the provision to designated eye and ear specialty hospitals.

We believe these changes are necessary if we are to preserve the quality of care in the outpatient setting that seniors deserve. Our Nation's seniors rely upon the health care services provided in the outpatient setting and we invite our colleagues on both sides of the aisle to join us in this effort.

By Mr. BINGAMAN (for himself and Mr. WELLSTONE):

S. 2548. A bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Education Works Act.

In 1996, legislation was passed which made major changes to our welfare laws. Since then, we know that the welfare rolls in most States have dramatically decreased. But reforming welfare is not just about reducing welfare rolls; welfare reform must ultimately be about helping poor individuals achieve self-sufficiency. While many have left welfare for work during the past several years, too many have been left behind because they don't have a high school degree, have little or no work history, have health problems, are in abusive relationships, or are dealing with other circumstances that make it difficult to work. In addition, those who have secured work are working at low wages with limited benefits. These parents experience little earning growth over time, because there are limited opportunities for mobility for those with low skill levels. As we move forward with the reauthorization process, we must do more to support state efforts to help these people find work and to ensure that all individuals leaving welfare are moving to employment that will provide long-term financial independence. The Education Works Act will do just that.

We know that the welfare programs that have been most successful in helping parents work and earn more over the long run are those that have focused on employment but made substantial use of education and training, together with job search and other employment services. In addition, studies find that helping low-income parents increase their skills pays off in the labor market, particularly through participation in vocational training and postsecondary education and training.

Yet, less than one percent of Federal TANF funds were spent on education and training in 2000 and only five percent of TANF recipients participated in these activities in the same year. This is due in large part to the fact that the '96 law discouraged States from allowing welfare recipients to participate in education and training programs. Specifically, the law limits the extent to which education activities count toward Federal work participation requirements, effectively restricting how long individuals can participate in training and capping how many individuals can receive these services.

The Education Works Act would change this by: clarifying that States have the flexibility to allow participation in postsecondary, vocational English as a Second Language, and basic adult education programs by TANF recipients as part of the TANF work requirements; giving States the flexibility to determine how long each participant may participate in education and training activities while receiving benefits; giving States the flexibility to provide childcare and transportation supports, but not cash benefits, to parents and not toll the 5 year time limit for these individuals if they are participating in a full-time education program that will lead to work and long-term independence; and eliminating the 30 percent cap on the number of TANF recipients that can participate in education and training programs in fulfillment of their work requirements

These are not radical changes. They do not discourage work, but rather enable it.

It is important to note that of the 21 States that have operated under TANF waivers since 1996, 18 of them had waivers of the requirements we are talking about here. Delaware, Indiana, Montana, Tennesee, Texas, Utah, Vermont and Oregon to name a few. The other 32 States should be given the same flexibility.

In my home State, we have recognized the important role that education and training, including postsecondary education, can play in helping some welfare recipients to improve their skills so that they can get off welfare and stay off welfare. In our State, we already have an ''Education Works'' program in place. But this program is limited to only 400 participants statewide, because the limitations in the TANF program make it impossible to use Federal TANF funds to implement it. This just doesn't make sense to me. We should give states the flexibility they need to implement the

types of programs that they believe work best. We should hold them accountable for decreasing caseloads over time and, more importantly, demonstrating that those leaving welfare are economically self-sufficient, but we should let them decide how to reach those goals. The Education Works Act would allow them to do just that. I urge my colleagues to support this legislation.

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

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

S. 2548

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 ''Education Works Act of 2002''.

SEC. 2. COUNTING EDUCATION AND TRAINING AS WORK.

Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

''(8) participation in vocational educational training, postsecondary education, an English-as-a-second-language program, or an adult basic education program;''.

SEC. 3. ELIMINATION OF LIMIT ON NUMBER OF TANF RECIPIENTS ENROLLED IN VOCATIONAL EDUCATION OR HIGH SCHOOL WHO MAY BE COUNTED TOWARDS THE WORK PARTICIPATION REQUIREMENT.

Section 407(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)) is amended by striking subparagraph (D).

SEC. 4. NONAPPLICATION OF TIME LIMIT TO INDIVIDUALS WHO DO NOT RECEIVE CASH ASSISTANCE AND ARE ENGAGED IN EDUCATION OR EMPLOYMENT.

Section 408(a)(7) of the Social Security Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

''(H) LIMITATION ON MEANING OF 'ASSISTANCE' FOR CERTAIN INDIVIDUALS.—For purposes of this paragraph, child care or transportation benefits provided during a month under the State program funded under this part to an individual who is participating in a full-time educational program or who is employed shall not be considered assistance under the State program.''.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2002, and shall apply to payments made under part A of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan under section 402(a) of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such section 402(a) solely on the basis of the failure of the plan to meet such additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 2550. A bill to amend the Professional Boxing Safety Act of 1966, and to establish the United States Boxing Administration; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. 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. 2550

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Professional Boxing Amendments Act of 2002''.

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

TITLE I—PROFESSIONAL BOXING SAFETY ACT AMENDMENTS

SEC. 101. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer which requires the boxer to participate in a professional boxing match with a designated opponent on a particular date.

''(2) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

''(3) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

''(4) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.

''(5) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

''(6) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

''(7) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

''(8) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, second, or cut man for a boxer.

''(9) LOCAL BOXING AUTHORITY.—The term 'local boxing authority' means—

''(A) any agency of a State, or of a political subdivision of a State, that has authority under the laws of the State to regulate professional boxing; and

''(B) any agency of an Indian tribe that is authorized by the Indian tribe or the governing body of the Indian tribe to regulate professional boxing on Indian lands.

''(10) MANAGER.—The term 'manager' means a person who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

''(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges the boxers to participate in a professional boxing match.

''(12) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action.

''(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' term does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Administration.

''(14) PROMOTER.—The term 'promoter' means the person primarily responsible for organizing, promoting, and producing a professional boxing match. The term 'promoter' does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

''(A) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

''(B) there is no other person primarily responsible for organizing, promoting, and producing the match.

''(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract between a promoter and a boxer under which the boxer grants to a promoter the exclusive right to secure and arrange all professional boxing matches requiring the boxer's services for—

''(A) a prescribed period of time; or

''(B) a prescribed number of professional boxing matches.

''(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of

the United States, including the Virgin Islands.

''(17) EFFECTIVE DATE OF THE CONTRACT.—The term 'effective date of the contract' means the day upon which a boxer becomes legally bound by the contract.

''(18) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

''(A) between boxers who are residents of different States; or

''(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

''(19) SUSPENSION.—The term 'suspension' includes within its meaning the revocation of a boxing license.

''(20) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

''(21) UNITED STATES BOXING ADMINISTRATION.—The terms 'United States Boxing Administration' and 'Administration' means the United States Boxing Administration established by section 202.''.

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

''SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe shall establish a boxing commission—

''(1) to regulate professional boxing matches held within the reservation under the jurisdiction of that tribal organization; and

''(2) to carry out that regulation or enter into a contract with a boxing commission to carry out that regulation.

''(b) STANDARDS AND LICENSING.—If a tribal organization regulates professional boxing matches pursuant to subsection (a), the tribal organization shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

''(1) the otherwise applicable standards and requirements of a State in which the Indian lands are located; or

''(2) the most recently published version of the recommended regulatory guidelines published by the United States Boxing Administration.''.

SEC. 103. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking 'State'.

SEC. 104. MATCHES IN JURISDICTIONS WITHOUT COMMISSIONS.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

''SEC. 4. BOXING MATCHES IN JURISDICTIONS WITHOUT BOXING COMMISSIONS.

''(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match in a State or on Indian land unless the match—

''(1) is approved by the United States Boxing Administration; and

''(2) is supervised by a boxing commission that is a member of the Association of Boxing Commissions.

''(b) APPROVAL PRESUMED.—For purposes of subsection (a), the Administration shall be presumed to have approved any match other than—

''(1) a match with respect to which the Administration has notified the supervising boxing commission that it does not approve;

''(2) a match advertised to the public as a championship match; or

''(3) a match scheduled for 10 rounds or more.

''(c) NOTIFICATION; ASSURANCES.—Each promoter who intends to hold a professional boxing match in a State that does not have a boxing commission shall, not later than 14 days before the intended date of that match, provide in writing to the Administration and the supervising boxing commission, assurances that all applicable requirements of this Act will be met with respect to that professional boxing match.''.

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 105. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking ''requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:'' and inserting ''requirements:'';

(2) by adding at the end of paragraph (1) ''The examination shall include testing for infectious diseases in accordance with standards established by the Administration.'';

(3) by striking paragraph (2) and inserting the following:

''(2) An ambulance continuously present on site.'';

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

''(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site.''; and

(5) by striking ''match.'' in paragraph (5), as redesignated, and inserting ''match in an amount prescribed by Administration.''.

SEC. 106. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting ''or Indian tribe'' after ''State'' the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting ''A boxing commission shall, in accordance with requirements established by the United States Boxing Administration, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.'';

(3) by striking ''should'' in the second sentence of subsection (c) and inserting ''shall, at a minimum,''; and

(4) by adding at the end the following:

''(d) COPY OF REGISTRATION TO BE SENT TO USBA.—A boxing commission shall furnish a copy of each registration received under subsection (a) to the United States Boxing Administration.''.

SEC. 107. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

''(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.'';

(2) by striking subsection (b); and

(3) by striking ''(a) PROCEDURES.—''..

SEC. 108. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking ''48 business hours'' and inserting ''2 business days''; and

(2) by striking ''each boxer registry.'' and inserting ''the United States Boxing Administration.''.

SEC. 109. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

''SEC. 9. CONTRACT REQUIREMENTS.

''(a) IN GENERAL.—The United States Boxing Administration, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that should be included in bout agreements and boxer-manager contracts. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

''(b) FILING REQUIREMENT.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it.

''(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission and the Administration.''.

SEC. 110. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting ''or elimination'' after ''mandatory'' in subsection (b).

SEC. 111. SANCTIONING ORGANIZATIONS.

(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2002, the United States Boxing Administration, in consultation with the Association of Boxing Commissions, shall develop guidelines for objective and consistent written criteria for the rating of professional boxers which shall include the athletic merits of the boxers. Within 90 days after the Administration's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.'';

(2) by striking so much of subsection (b) as precedes paragraph (1) and inserting the following:

''(b) APPEALS PROCESS.—If a sanctioning organization receives a request from a boxer questioning that organization's rating of the boxer, it shall (except to the extent otherwise required by the United States Boxing Administration), within 7 days after receiving the request—'';

(3) by inserting ''rating'' before ''criteria'' in subsection (b)(1);

(4) by striking ''and'' after the semicolon in subsection (c)(1);

(5) by striking ''an association to which at least a majority of the State boxing commissions belong.'' in subsection (c)(2) and inserting ''the boxer and the Administration.;'';

(6) by adding at the end of subsection (c) the following:

''(3) provides the boxer an opportunity to appeal the ratings change; and

''(4) applies the objective criteria for ratings required under subsection (a) in considering any such appeal.''; and

(7) by striking ''rating;'' in subsection (d)(1)(C) and inserting ''rating, which incorporates the objective criteria for ratings required under subsection (a);''.

(b) TECHNICAL AMENDMENT.—Section 11(d)(1) (15 U.S.C. 6307c(d)(1)) is amended by striking ''ABC—'' and inserting ''Association of Boxing Commissions—''.

SEC. 112. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization for that match shall provide to the boxing commission in the State or on the Indian lands responsible for regulating the match a statement of—'';

(2) by striking ''will assess'' in paragraph (1) and inserting ''has assessed, or will assess,''; and

(3) by striking ''will receive'' in paragraph (2) and inserting ''has received, or will receive,''.

SEC. 113. REQUIRED DISCLOSURES BY PROMOTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking the matter in subsection (a) preceding paragraph (1) and inserting the following:

''(a) DISCLOSURES TO THE BOXING COMMISSIONS.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the boxing commission in the State responsible for regulating the match and the Administration—'';

(2) by striking ''writing,'' in subsection (a)(1) and inserting ''writing, other than a bout agreement previously provided to the commission,'';

(3) by striking ''all fees, charges, and expenses that will be'' in subsection (a)(3)(A) and inserting ''a statement of all fees, charges, and expenses that have been, or will be,'';

(4) by striking the matter in subsection (b) following ''BOXER.—'' and preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match with whom the promoter has a promotional agreement shall provide to each boxer participating in the match—''; and

(5) by striking ''match;'' in subsection (b)(1) and inserting ''match, or that the promoter has paid, or agreed to pay, to any other person in connection with the match;''.

SEC. 114. CONFIDENTIALITY.

Section 15 (15 U.S.C. 6307g) is repealed.

SEC. 115. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting ''(a) LICENSING AND ASSIGNMENT REQUIREMENT.—'' before ''No person'';

(2) by inserting ''or Indian lands'' after ''State''; and

(3) by adding at the end the following:

''(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the United States Boxing Administration.

''(c) SANCTIONING ORGANIZATION TO PROVIDE LIST.—A sanctioning organization—

''(1) shall provide a list of judges and referees deemed qualified by that organization to a boxing commission; but

''(2) may not influence, or attempt to influence, a boxing commission's selection of a judge or referee for a professional boxing match except by providing such a list.

''(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or tribal land if the judge or referee is licensed by a boxing commission.

''(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian lands a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Administration.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 14 (15 U.S.C. 6307f) is repealed.

(2) Section 18(b)(2) (15 U.S.C. 6309(b)(2)) is amended by striking ''14,''.

SEC. 116. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

''SEC. 14. MEDICAL REGISTRY.

''(a) IN GENERAL.—The Administration , in consultation with the Association of Boxing Commissions, shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical suspensions for every licensed boxer.

''(b) CONTENT; SUBMISSION.—The Administration shall determine—

''(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

''(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

''(c) CONFIDENTIALITY.—The Administration shall establish confidentiality standards for the disclosure of personally identifiable information to sanctioning organizations that will—

''(1) protect the health and safety of boxers by making relevant information available to the organizations for use but not public disclosure; and

''(2) ensure that the privacy of the boxers is protected.''.

SEC. 117. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by insert ''**OR TRIBAL**'' in the section heading after ''**STATE**''; and

(2) by inserting ''or Indian tribe'' after ''State''.

SEC. 118. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

The Act is amended by adding at the end the following:

''TITLE II—UNITED STATES BOXING ADMINISTRATION

''SEC. 201. PURPOSE.

''The purpose of this title is to protect the health and safety of boxers and to ensure fairness in the sport.

''SEC. 202. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

''The United States Boxing Administration is established as an administration of the Department of Labor.

''(b) ADMINISTRATOR.—

''(1) APPOINTMENT.—The Administration shall be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The Administrator shall be—

''(A) an individual with experience in a field directly related to professional sports; and

''(B) selected on the basis of the individual's training, experience, and qualifications and without regard to party affiliation.

''(3) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''The Administrator of the United States Boxing Administration.''.

''(c) ASSISTANT ADMINISTRATOR; GENERAL COUNSEL.—The Administration shall have an Assistant Administrator and a General Counsel, who shall be appointed by the Administrator. The Assistant Administrator shall—

''(1) serve as Administrator in the absence of the Administrator or in the event of a vacancy in that office; and

''(2) carry out such duties as the Administrator may assign.

''(d) STAFF.—The Administration shall have such additional staff as may be necessary to carry out the functions of the Administration.

''SEC. 203. FUNCTIONS.

''(a) PRIMARY FUNCTION.—The primary function of the Administration is to protect the health, safety, and general interests of boxers consistent with the provisions of this Act.

''(b) SPECIFIC FUNCTIONS.—The Administrator shall—

''(1) administer title I of this Act;

''(2) except as otherwise determined by the Administration, oversee all professional boxing matches in the United States;

''(3) work with sanctioning organizations, the Association of Boxing Commissions, and the boxing commissions of the several States and tribal organizations—

''(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

''(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

''(C) to improve the status and standards of professional boxing in the United States;

''(4) ensure, through the Attorney General, the Federal Trade Commission, and other appropriate officers and agencies of the Federal government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

''(5) review local boxing authority regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Administration under this title;

''(6) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

''(7) if the Administrator determines it to be appropriate, publish a newspaper, magazine, or other publication consistent with the purposes of the Administration;

''(8) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Administration determines to be reasonable; and

''(9) take any other action that is necessary and proper to accomplish the purpose of this title consistent with the provisions of this title.

''(c) PROHIBITIONS.—The Administration may not—

''(1) promote boxing events or rank professional boxers; or

''(2) provide technical assistance to, or authorize the use of the name of the Administration by, States and Indian tribes that do not comply with requirements of the Administration.

''(d) USE OF NAME.—The Administration shall have the exclusive right to use the name 'United States Boxing Administration'. Any person who, without the permission of the Administration, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Administration for the purpose of inducing the sale of

any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Administration for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

"SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

''(a) LICENSING.—

''(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match, serve as a boxing manager, boxing promoter, sanctioning organization, or broadcast a professional boxing match except as provided in a license granted to that person under this subsection.

''(2) APPLICATION AND TERM.—

''(A) IN GENERAL.—The Administration shall—

''(i) establish an application procedure, form, and fee;

''(ii) establish appropriate standards for licenses granted under this section; and

''(iii) issue a license to any person who, as determined by the Administration, meets the standards established by the Administration under this title.

''(B) DURATION.—A license issued under this section shall be for a renewable—

''(i) 4-year term for a boxer; and

''(ii) 2-year term for any other person.

''(C) PROCEDURE.—The Administration may issue a license under this paragraph through local boxing authorities or in a manner determined by the Administration.

''(b) LICENSING FEES.—

''(1) AUTHORITY.—The Administration may prescribe and charge fees for the licensing of persons under this title. The Administration may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Administration.

''(2) AMOUNTS.—The amounts of fees prescribed for a fiscal year under this subsection shall be set at levels estimated, when set, to yield collections in any total amount that is not more than 10 percent of the total budget of the Administration for that fiscal year.

''(3) LIMITATIONS.—In setting and charging fees under paragraph (1), the Administration shall ensure that, to the maximum extent practicable—

''(A) club boxing is not adversely effected;

''(B) sanctioning organizations and promoters pay the largest portion of the fees; and

''(C) boxers pay as small a portion of the fees as is possible.

''(4) COLLECTION.—Fees established under this subsection may be collected through local boxing authorities or by any other means determined appropriate by the Administration. Fees paid by boxing promoters may be derived from gross receipts from professional boxing matches.

''(5) DEPOSIT OF COLLECTIONS.—Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Administration.

"SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

''(a) REQUIREMENT FOR REGISTRY.—The Administration shall maintain a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

''(b) CONTENTS.—The information in the registry shall include the following:

''(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 14 of this Act, which the Administration shall secure from disclosure in accordance with the confidentiality requirements of section 14(c).

''(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Administration as performing a professional activity for professional boxing matches.

"SEC. 206. CONSULTATION REQUIREMENTS.

''The Administration shall consult with local boxing authorities—

''(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

''(2) not less than once each year regarding matters relating to professional boxing.

"SEC. 207. MISCONDUCT.

''(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

''(1) AUTHORITY.—The Administration may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Administration finds that—

''(A) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest; or

''(B) there are reasonable grounds for belief that a standard prescribed by the Administration under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license.

''(2) PERIOD OF SUSPENSION.—

''(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Administration except as provided in subparagraph (B).

''(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension of the license of a boxer for medical reasons, the Administration may terminate the suspension at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Administration shall prescribe the standards and procedures for accepting certifications under this subparagraph.

''(b) INVESTIGATIONS AND INJUNCTIONS.—

''(1) AUTHORITY.—The Administration may—

''(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this title or any regulation prescribed under this title;

''(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated;

''(C) in its discretion, publish information concerning any violations; and

''(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this title, in the prescribing of regulations under this title, or in securing information to serve as a basis for recommending legislation concerning the matters to which this title relates.

''(2) POWERS.—

''(A) IN GENERAL.—For the purpose of any investigation under paragraph (1), or any other proceeding under this title, any officer designated by the Administration may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Administration considers relevant or material to the inquiry.

''(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States or any State at any designated place of hearing.

''(3) ENFORCEMENT OF SUBPOENAS.—

''(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Administration may file an action in any court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Administration to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

''(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that Court.

''(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

''(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

''(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Administration, in obedience to the subpoena of the Administration, or in any cause or proceeding instituted by the Administration, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

''(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

''(5) INJUNCTIVE RELIEF.—If the Administration determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this title, or of any regulation prescribed under this title, the Administration may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

''(6) MANDAMUS.—Upon application of the Administration, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Administration.

''(d) INTERVENTION IN CIVIL ACTIONS.—

''(1) IN GENERAL.—The Administration, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a United States district court.

''(2) AMICUS FILING.—The Administration may file a brief in any action filed in a court

of the United States on behalf of the public interest in any case relating to professional boxing.

''(e) HEARINGS BY ADMINISTRATION.—Hearings conducted by the Administration under this title may be public and may be held before any officer of the Administration or before a State boxing commission. The Administration shall keep appropriate records of the hearings.

''SEC. 208. NONINTERFERENCE WITH LOCAL BOXING AUTHORITIES.

''(a) NONINTERFERENCE.—Nothing in this title prohibits any local boxing authority from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this title.

''(b) MINIMUM STANDARDS.—Nothing in this title prohibits any local boxing authority from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Administration under this title.

''SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

''Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Administration, upon the request of the Administration, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

''SEC. 210. REPORTS.

''(a) ANNUAL REPORT.—The Administration shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include the following:

''(1) A detailed discussion of the activities of the Administration for the year covered by the report.

''(2) A description of the local boxing authority of each State and Indian tribe.

''(b) PUBLIC REPORT.—The Administration shall annually issue and publicize a report of the Administration on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing and commenting on issues of continuing concern to the Administration.

''(c) FIRST ANNUAL REPORT ON THE ADMINISTRATION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

''SEC. 211. INITIAL IMPLEMENTATION.

''(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a State or Indian tribe to perform that activity as of the effective date of this title.

''(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a State or Indian tribe expires on the earlier of—

''(A) the date on which the license expires; or

''(B) the date that is 2 years after the date of the enactment of this Act.

''SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated for the Administration for each fiscal year such sums as may be necessary for the Administration to perform its functions for that fiscal year.

''(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.''.

SEC. 119. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect one year after the date of the enactment of this Act, except that the provisions of sections 202, 203, and 204 of title II of the Professional Boxing Safety Act of 1996, as added by section 118 of this Act, shall take effect on the date of enactment of this Act.

By Ms. SNOWE (for herself, Mr. BAUCUS, and Mr. BINGAMAN):

S. 2552. A bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Pathways to Self-Sufficiency Act of 2002. I am pleased to be joined in introducing this important legislation by my colleagues Senators BAUCUS and BINGAMAN.

This legislation is based upon the highly esteemed Maine program called Parents as Scholars. This program, which uses State Maintenance of Effort, (MOE), dollars to pay TANF-like benefits to those participating in post-secondary education, is a proven success in my State and is a wonderful foundation for a national effort.

We all agree that the 1996 welfare reform effort changed the face of this Nation's welfare system to focus it on work. To that end, I believe that this legislation bolsters the emphasis on ''work first.'' Like many of my colleagues, I agree that the shift in the focus from welfare to work was the right decision, and that work should be the top priority. However, for those TANF recipients who cannot find a good job that will put them on the road toward financial independence, education might well be the key to a successful future of self-sufficiency.

As we have seen in Maine that education has played a significant role in breaking the cycle of welfare and giving parents the skills necessary to find better paying jobs. And we all know that higher wages are the light at the end of the tunnel of public assistance.

The Pathways to Self-Sufficiency Act of 2002 provides State with the option to allow individuals receiving Federal TANF assistance to obtain post-secondary or vocational education. This legislation would give States the ability to use Federal TANF dollars to give those who are participating in vocational or post-secondary education the same assistance as they would receive if they were working.

We all know that supports like income supplements, child care subsidies, and transportation assistance among others, are essential to a TANF recipient's ability to make a successful transition to work. The same is true for those engaged in longer term educational endeavors. This assistance is especially necessary for those who are undertaking the challenge and the financial responsibility of post-secondary education, in the hopes of increasing their earning potential and employability. The goal of this program is to give participants the tools necessary to succeed into the future so that they can become, and remain, self-sufficient.

Choosing to go to college requires motivation, and graduating from college requires a great deal of commitment and work, even for someone who isn't raising children and sustaining a family. These are significant challenges, and that's even before taking into consideration the cost associated with obtaining a bachelor's degree, with a four year program at the University of Maine currently costing almost $25,000. This legislation would provide those TANF recipients who have the ability and the will to go to college the assistance they need to sustain their families while they get a degree.

The value of promoting access to education in this manner to get people off public assistance is proven by the success of Maine's Parents as Scholars, PaS, program. Maine's PaS graduates earn a median wage of $11.71 per hour after graduation up from a median of $8.00 per hour prior to entering college. When compared to the $7.50 median hourly wage of welfare leavers in Maine who have not received a post-secondary degree, PaS graduates are earning, on average, $160 more per week. That translates into more than $8,000 per year—a significant difference.

Furthermore, the median grade point average for PaS participants while in college was 3.4 percent, and a full 90 percent of PaS participants' GPA was over 3.0. These parents are giving their all to pull their families out of the cycle of welfare.

Recognizing that work is a priority under TANF, and building upon the successful Maine model, the Pathways to Self-Sufficiency Act requires that participants in post-secondary and vocational education also participate in work. During the first two years of their participation in these education programs, students must participate in a combination of class time, study time, employment or work experience for at least 24 hours per week, the same hourly requirement that the President proposes in his welfare reauthorization proposal.

During the second two years, for those enrolled in a four year program, the participant must work at least 15 hours in addition to class and study time, or engage in a combination of activities, including class and study

time, work or work experience, and training, for an average of 30 hours per week. And all the while, participants must maintain satisfactory academic progress as defined by their academic institution.

The bottom line is that if we expect parents to move from welfare to work and stay in the work force, we must give them the tools to find good jobs. For some people that means job training, for others that could mean dealing with a barrier like substance abuse or domestic violence, and for others, that might mean access to education that will secure them a good job and that will get them off and keep them off of welfare.

The experience of several Parents as Scholars graduates were recently captured in a publication published by the Maine Equal Justice Partners, and their experiences are testament to the fact that this program is a critically important step in moving towards self-sufficiency. In this report one PaS graduate said of her experience, ''If it weren't for 'Parents as Scholars' I would never have been able to attend college, afford child care, or put food on the table. Today, I would most likely be stuck in a low-wage job I hated, barely getting by . . . I can now give my children the future they deserve.''

Another said, ''By earning my Bachelor's degree, I have become self sufficient. I was a waitress previously and would never have been able to support my daughter and I on the tips that I earned. I would encourage anyone to better their education if possible.''

These are but a few comments from those who have benefited from access to post-secondary education. And, while these women have been able to attend college and pursue good jobs thanks to the good will and the support of the people of Maine, PaS has strained the State's budget. Giving States the option to use Federal dollars to support these participants will make a tremendous difference in their ability to sustain these programs which have proven results. In Maine, nearly 90 percent of working graduates have left TANF permanently, and isn't that our ultimate goal?

I look forward to working with my colleagues to include this legislation in the upcoming welfare reauthorization. It is a critical piece of the effort to move people from welfare to work permanently and it has been missing from the Federal program for too long.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2553. A bill to amend the Alaska Native Claims Settlement Act to provide equitable treatment of Alaska Native Vietnam Veterans, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation that will finally bring closure to the concerns of many Alaska Native veterans who served their country during the Vietnam war.

When the Alaska Native Claims Settlement Act, ANCSA, was signed into law by President Nixon in 1971, many Alaska Natives were serving in our military. Because of their service, many were unable to apply for Native land allotments under the Native Allotment Act, a program that was ended with the enactment of ANCSA. Alaska Natives who did not serve during the Vietnam conflict were able to apply for lands under the Native Allotment Act but those who did serve had little chance to apply under the circumstances.

I think everyone here will agree that allowing these veterans the same advantages as those who did not serve in the military during the Vietnam conflict is only fair. The main problem is that when we first addressed this inequity in 1998, the terms we set were so restrictive that presently only 60 out of a possible 1,110 veterans who could qualify even have the chance of receiving an allotment. That is a paltry 5 percent of all that could have otherwise qualified. This is simply not acceptable. My legislation addresses the restrictive terms we unknowingly set in the 1998 amendment in three ways: First, my legislation will expand the military service dates of the program so that they coincide with the official dates of the Vietnam conflict. We ought not to complicate matters by using any dates other than those that the Veteran's Administration has officially determined are within the Vietnam conflict era. Those dates are August 5, 1964 through May 7, 1975.

Secondly, my legislation will replace the current use and occupancy requirements with a simplified approval process, just like the one established under the Alaska National Interest Lands Conservation Act. By adopting the same legislative approval process that other allotment programs used, this legislation will avoid the lengthy delays, costly adjudications and burdensome requirements that Alaska Native veterans are currently facing. If we do not correct this particular problem now, many Alaska Native veterans will die before they ever have their applications approved. We cannot allow this to happen to them.

Finally, my legislation will extend the application deadline and expand the available land choices so that the Alaska Native veterans who could qualify for allotments will have the time and allotment options they need in order to participate.

I hope my colleagues will join me in making these simple, common sense changes so that this group of veterans can secure the land allotments they deserve.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 116—TO EXPRESS THE SENSE OF THE CONGRESS REGARDING DYSPRAXIA

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 116

Whereas an estimated 1 in 20 children suffers from the developmental disorder dyspraxia;

Whereas 70 percent of those affected by dyspraxia are male;

Whereas dyspraxics may be of average or above average intelligence but are often behaviorally immature;

Whereas symptoms of dyspraxia consist of clumsiness, poor body awareness, reading and writing difficulties, speech problems, and learning disabilities, even though not all of these will apply to every dyspraxic;

Whereas there is no cure for dyspraxia, but the earlier a child is treated the greater the chance of developmental maturation;

Whereas dyspraxics may be shunned within their own peer group because they do not fit in;

Whereas most dyspraxic children are dismissed as ''slow'' or ''clumsy'' and, therefore, not properly diagnosed;

Whereas more than 50 percent of educators have never heard of dyspraxia;

Whereas education and information about dyspraxia are important to it's detection and treatment; and

Whereas Congress as an institution, and members of Congress as individuals, are in unique positions to help raise the public awareness about dyspraxia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) all Americans should be more informed about dyspraxia, its easily recognized symptoms, and proper treatment; and

(2) teachers, principals, and other educators should be encouraged to learn to recognize the symptoms of dyspraxia and similar disorders in the classroom so that these children will have a better chance of receiving early and effective treatment.

SENATE RESOLUTION 274—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE 2002 WORLD CUP AND CO-HOSTS REPUBLIC OF KOREA AND JAPAN

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolutionl which was referred to the Committe on Foreign Relations:

S. RES. 274

Whereas the United States maintains vitally important alliances with Japan and the Republic of Korea;

Whereas the Republic of Korea and Japan will co-host the 2002 Federation International Football Association (FIFA) World Cup Korea/Japan;

Whereas the 2002 FIFA World Cup will be the first World Cup to be co-hosted by two nations;

Whereas the 2002 FIFA World Cup Korea/Japan will be the first FIFA World Cup to be held in Asia;

Whereas for 72 years, the World Cup has symbolized the assemblage of nations to celebrate fair-play, sportsmanship, and diversity of cultures;