S. Res. 110. A resolution honoring Mary Jane Jenkins Ogilvie, wife of former Senate Chaplain, Reverend Dr. Lloyd John Ogilvie; considered and agreed to.

By Mr. SPECTER (for himself and Mr. BIDEN):

S. Con. Res. 34. A concurrent resolution calling for the prosecution of Iraqis and their supporters for war crimes, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 85

At the request of Mr. LUGAR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 271

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 331

At the request of Mr. DASCHLE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 331, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 386

At the request of Mr. CORZINE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 386, a bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes.

S. 395

At the request of Mr. GRASSLEY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 516

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 587

At the request of Mr. WYDEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 587, a bill to promote the use of hydrogen fuel cell vehicles, and for other purposes.

S. 646

At the request of Mr. CORZINE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 646, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 721

At the request of Mr. ALLEN, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 721, a bill to amend the Internal Revenue Code of 1986 to expand the combat zone income tax exclusion to include income for the period of transit to the combat zone and to remove the limitation on such exclusion for commissioned officers, and for other purposes.

S. 760

At the request of Mr. GRASSLEY, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 760, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 789

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 789, a bill to change the requirements for naturalization through service in the Armed Forces of the United States.

S. 791

At the request of Mr. INHOFE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 791, a bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. COLLINS), the Senator from Oregon (Mr. WYDEN), the Senator from Rhode Island (Mr. REED), the Senator from Indiana (Mr. BAYH) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. RES. 97

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of S. Res. 97, a resolution expressing the sense of the Senate regarding the arrests of Cuban democracy activists by the Cuban Government.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 808. A bill to provide for expansion of Sleeping Bear Dunes National Lakeshore; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Sleeping Bear Dunes expansion bill be printed in the Record.

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

S. 808

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

SECTION 1. EXPANSION OF SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) IN GENERAL.—When title to the land described in subsection (b) has vested in the United States in fee simple, the boundary of Sleeping Bear Dunes National Lakeshore is revised to include such land in that park.

(b) LAND DESCRIBED.—The land referred to in subsection (a) consists of approximately 104.45 of unimproved lands generally depicted on National Park Service map number 634/80078, entitled ''Bayberry Mills, Inc. Crystal River, MI Proposed Expansion Unit to Sleeping Bear Dunes National Lakeshore''. The Secretary of the Interior shall keep such map on file and available for public inspection in the appropriate offices of the National Park Service.

(c) PURCHASE OF LANDS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Interior may acquire the land described in subsection (b), only by purchase from a willing seller.

(2) BUDGET REQUEST.—The Secretary of the Interior shall include in the National Park Service budget submitted for fiscal year 2004 a request for funds necessary for the acquisition authorized by this subsection.

(d) LIMITATION ON ACQUISITION BY EXCHANGE OR CONVEYANCE.—The Secretary of the Interior may not acquire any of the land described in subsection (b) through any exchange or conveyance of lands that are within the boundary of the Sleeping Bear Dunes National Lakeshore as of the date of the enactment of this Act.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. SHELBY, and Mrs. HUTCHISON):

S. 810. A bill to enhance the protection of children against crime by eliminating the statute of limitations for child abduction and sex crimes, providing for registration of child pornographers as sex offenders, establishing a grant program in support of AMBER Alert communications plans, and for other purposes; to the Committee on the Judiciary.

Mr. DEWINE. 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. 810

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 ''Protecting Children Against Crime Act of 2003''.

SEC. 2. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Child abduction and sex offenses

''Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110, or 117, or section 1591.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3297. Child abduction and sex offenses.''.

(b) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

SEC. 3. REGISTRATION OF CHILD PORNOGRAPHERS IN THE NATIONAL SEX OFFENDER REGISTRY.

(a) JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.—Section 170101 of subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 170101. JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.'';

and

(2) in subsection (a)(3)—

(A) in clause (vii), by striking ''or'' at the end;

(B) by redesignating clause (viii) as clause (ix); and

(C) by inserting after clause (vii) the following:

''(viii) production or distribution of child pornography, as described in section 2251, 2252, or 2252A of title 18, United States Code; or''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for each of fiscal years 2004 through 2007, such sums as may be necessary to carry out the amendments made by this section.

SEC. 4. GRANT PROGRAM FOR NEW TECHNOLOGIES TO IMPROVE AMBER ALERT COMMUNICATIONS PLANS.

(a) PROGRAM REQUIRED.—The Attorney General of the United States shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include the development and implementation of new technologies to improve AMBER Alert communications.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent of the total cost thereof.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice $5,000,000 for each of fiscal years 2004 through 2007, to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 5. NATIONAL RESEARCH COUNCIL STUDY AND REPORT CONCERNING ON-LINE PORNOGRAPHY.

(a) STUDY.—The National Research Council of the National Academy of Sciences shall conduct a study of—

(1) the extent to which it is possible for Internet service providers to monitor Internet traffic to detect illicit child pornography sites on the Internet, and the extent to which they do so;

(2) the extent to which purveyors use credit cards to facilitate the sale of illegal child pornography on the Internet;

(3) which credit card issuers have in place a system to facilitate the identification of purveyors who use credit cards to facilitate the sale of illicit child pornography; and

(4) options for encouraging greater reporting of such illicit transactions to law enforcement officials.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall submit a report to the Congress on the study conducted under subsection (a).

SEC. 6. SEVERABILITY.

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

By Mr. ALLARD (for himself and Mr. SESSIONS):

S. 811. A bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes; to the Committee on the Judiciary.

Mr. ALLARD. Mr. President, I rise today to introduce the American Dream Downpayment Act. I am pleased to have Senator SESSIONS join me in introducing this bill.

Homeownership has long been the American dream, and we are incredibly fortunate that in America more and more families have been able to achieve the dream of homeownership. In fact, right now more American families own their home than ever before, and that number continues to increase.

However, for some working families, low income families, women-headed households, minority families, urban dwellers, and young families the dream of homeownership remains elusive.

This is particularly true for minority families. While Americans enjoy the world's greatest opportunities for becoming homeowners, only 47 percent of African-American and Hispanic families own their homes, as compared to 75 percent of white families.

We must eliminate this gap in homeownership, so I am pleased to join with President Bush and Secretary Martinez in the initiative to create 5.5 million new minority homeowner families by the end of the decade.

One key component of this initiative is the American Dream Downpayment Initiative, which I am pleased to introduced today in the Senate. This bill will provide $200 million annually to State and local governments for downpayment assistance programs.

One of the greatest barriers for families in becoming homeowners is their inability to afford the downpayment requirements and closing costs. These are hard working families that can make mortgage payments, they simply need assistance with the downpayment and closing costs.

The American Dream Downpayment Initiative will create 40,000 new homeowners each year, focusing on low-income and first-time homebuyers. And because the initiative will be administered through HUD's existing HOME program, it will minimize bureaucracy and duplication while maximizing flexibility for local jurisdictions.

Homeownership has many benefits for cities, neighborhood, and families. In fact, a study released by the Homeownership Alliance revealed that children living in an owned home scored nine percent higher on math tests and seven percent higher in reading achievement.

Homeownership has the power to transform individual lives and to

strengthen entire communities. Increasing homeownership, particularly among minorities, is a top goal for me.

The $200 million for the American Dream Downpayment Fund will help make that dream come true for more American families.

I look forward to the opportunity to working with my colleagues to get the American Dream Downpayment Initiative enacted into law.

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. 811

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 ''American Dream Downpayment Act''.

SEC. 2. DOWNPAYMENT ASSISTANCE INITIATIVE UNDER HOME PROGRAM.

(a) DOWNPAYMENT ASSISTANCE INITIATIVE.—Subtitle E of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12821) is amended to read as follows:

''Subtitle E—Other Assistance

''SEC. 271. DOWNPAYMENT ASSISTANCE INITIATIVE.

''(a) GRANT AUTHORITY.—The Secretary may make grants to participating jurisdictions to assist low-income families to achieve homeownership, in accordance with this section.

''(b) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—Grants made under this section may be used only for downpayment assistance toward the purchase of single family housing by low-income families who are first-time homebuyers.

''(2) DEFINITION.—For purposes of this subtitle, the term 'downpayment assistance' means assistance to help a family acquire a principal residence.

''(c) HOUSING STRATEGY.—To be eligible to receive a grant under this section for a fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy submitted under section 105 for such year, a description of the use of the grant amounts.

''(d) FORMULA ALLOCATION.—

''(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this section for the fiscal year in accordance with a formula, established by the Secretary, that considers a participating jurisdiction's need for and prior commitment to assistance to homebuyers.

''(2) ALLOCATION AMOUNTS.—The formula referred to in paragraph (1) may include minimum and maximum allocation amounts.

''(e) REALLOCATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if any amounts allocated to a participating jurisdiction under this section become available for reallocation, the amounts shall be reallocated to other participating jurisdictions in accordance with the formula established pursuant to subsection (d).

''(2) EXCEPTION.—If a local participating jurisdiction failed to receive amounts allocated under this section and is located in a State that is a participating jurisdiction, the funds shall be reallocated to the State.

''(f) APPLICABILITY OF OTHER PROVISIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, grants made under this section shall not be subject to the provisions of this title.

''(2) APPLICABLE PROVISIONS.—In addition to the requirements of this section, grants made under this section shall be subject to the provisions of title I, sections 215(b), 218, 219, 221, 223, 224, and 226(a) of subtitle A of this title, and subtitle F of this title.

''(3) REFERENCES.—In applying the requirements of subtitle A referred to in paragraph (2)—

''(A) any references to funds under subtitle A shall be considered to refer to amounts made available for assistance under this section; and

''(B) any references to funds allocated or reallocated under section 217 or 217(d) shall be considered to refer to amounts allocated or reallocated under subsection (d) or (e) of this section, respectively.

''(g) ADMINISTRATIVE COSTS.—Notwithstanding section 212(c), a participating jurisdiction may use funds under subtitle A for administrative and planning costs of the jurisdiction in carrying out this section, and the limitation in section 212(c) shall be based on the total amount of funds available under subtitle A and this section.

''(h) FUNDING.—

''(1) FISCAL YEAR 2002.—This section constitutes the subsequent legislation authorizing the Downpayment Assistance Initiative referred to in the item relating to the 'HOME Investment Partnerships Program' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Public Law 107–73; 115 Stat. 666).

''(2) SUBSEQUENT FISCAL YEARS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2003 through 2006.''.

''(b) RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.—Subtitle F of title II of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting after section 290 (42 U.S.C. 12840) the following:

''SEC. 291. RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.

''The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (84 Stat. 1894) shall not apply to downpayment assistance under this title.''.

By Ms. COLLINS (for herself, Mr. DASCHLE, Mr. JOHNSON, Mr. NELSON of Florida, and Mr. DURBIN):

S. 812. A bill to amend section 16131 of title 10, United States Code, to increase rates of educational assistance under the program of educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

Ms. COLLINS. Mr. President, at a time when our men and women in uniform are fighting valiantly to bring peace and opportunity to an oppressed people and ensure the security of our homeland, I am pleased to introduce the Selected Reserve Educational Assistance Act of 2003 to extend the opportunity of higher education to many of those very same men and women in uniform. This legislation provides our National Guard and Reserve personnel, hundreds of thousands of whom are currently mobilized, deployed, and fighting around the globe, with educational opportunities as intended by the Montgomery GI bill. I am pleased that my colleagues, Senators TOM DASCHLE, TIM JOHNSON, and BILL NELSON, have joined as cosponsors.

Through this legislation, we week to promote both service to country and education in a way that is both logical and fair. Members of our National Guard and Reserve are members of our communities. The skills they learn from military service are reflected in the positions of leadership they assume among us. These citizen-soldiers have demonstrated their commitment to serve and as members of the ''total force'' deserve opportunities to further improve themselves through the civilian educational opportunities the Montgomery GI bill promotes. Service and education are prerequisites of a strong, vibrant democracy. This legislation seeks to further this combined effort.

The original GI bill, known as the Servicemen's Readjustment Act, was enacted in 1944. That bill provided a $500 annual education stipend as well as a $50 subsistence allowance. As a result of this initiative, 7.8 million World War II veterans were able to take advantage of post-service education and training opportunities, including more than 2.2 million veterans who went on to college. My own father was among those veterans who volunteered for the war, fought bravely, and then returned to college with assistance from the GI bill.

Since the 1940's various versions of servicemen's education assistance have allowed millions of veterans to take advantage of educational opportunities. Over time, however, inflation and the escalating costs of higher education have eroded the value of those educational benefits. During the 107th Congress with the enactment of Public Law 107–103 Senator JOHNSON and I, along with many of our colleagues, made great strides returning value to educational assistance benefits available for active component service members and veterans. More remains to be done.

The United States military is an all volunteer force. In times of peace and prosperity and in times of trial, we rely on young men and women to come forward of their own accord to stand up for our collective defense. Though service to country and patriotism, particularly in times of crisis, factor into recruiting this all volunteer force, benefits still do and ought to matter. We must remain vigilant, as we are constantly recruiting new members of our armed forces, ensuring the benefits these individuals receive from military service are commensurate with the service they render to this nation.

At its inception in 1985, the Reserve Montgomery GI bill program, had been pegged at 47 percent of basic active component Montgomery GI bill benefits. During the ensuing 18 years, the parity of the reserve program with its active duty counterpart has slipped. At present the Chapter 1606 program, Selected Reserve Montgomery GI bill, is only about 28 percent of the Chapter 30 program. This legislation attempts to bring the reserve program back in line with the active component benefit.

In each of the last three years over 75,000 National Guard and Reserve members have taken advantage of Veterans Administration educational benefits for pursuing their educational or vocational objectives. While those citizen-soldiers currently mobilized may become eligible for veterans benefits, we must correct the disparity between the active and reserve Montgomery GI bill programs. Only two benefit increases have been legislated in the reserve program since its inception in 1985, other than cost-of-living increases. The reserve Montgomery GI bill benefit for full-time study stands at $276 compared to $985 per month for the Title 38 program. This legislation will bring the reserve Montgomery GI bill benefit to $428 per month in fiscal year 2004 and $473 per month in fiscal year 2005 and continue out-year increases in accordance with advances in the consumer price index.

The Military Coalition comprised of 33 member organizations representing over 5.5 million veterans and family members endorses rate increases and funds for the reserve Montgomery GI bill program so that National Guard and Reserve service members can reap an educational return on their voluntary service to country.

It is time to return reserve educational assistance benefits to the level intended by the original drafting of the Reserve Montgomery GI Bill. Coupling and reinforcing service with higher education will pay dividends for our future security, strength and prosperity. This legislation fulfills the promise made to our Nation's service members, helps with recruiting and retention, strengthens the economy, and partly offsets the increasing costs of higher education.

I urge all Members of the Senate to join me in support of the Selected Reserve Educational Assistance Act of 2003 and quickly pass 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. 812

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

SECTION 1. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE UNDER PROGRAM OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) INCREASE IN RATES.—Section 16131(b)(1) of title 10, United States Code, is amended by striking subparagraphs (A) through (C) and inserting the following new subparagraphs (A) through (C):

''(A) For a program of education pursued on a full-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $428;

''(ii) for months occurring during fiscal year 2005, $473; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).

''(B) For a program of education pursued on a three-quarter-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $321;

''(ii) for months occurring during fiscal year 2005, $355; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).

''(C) For a program of education pursued on a half-time basis, at the monthly rate of—

''(i) for months occurring during fiscal year 2004, $214;

''(ii) for months occurring during fiscal year 2005, $237; and

''(iii) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year, increased under paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, and shall apply with respect to months that begin on or after the date.

(c) CPI ADJUSTMENT.—No adjustment shall be made under paragraph (2) of section 16131(b) of title 10, United States Code, for fiscal years 2004 and 2005.

By Mr. CORZINE:

S. 813. A bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the temporary assistance to needy families program and to allow financial education to count as a work activity under that program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today with my colleagues Senators AKAKA and SARBANES to introduce the Financial Literacy for Self-Sufficiency Act.

Our bill would require States to promote financial education through their TANF, Temporary Assistance to Needy Families, programs. Financial education—education that promotes an understanding of consumer, economic, and personal finance concepts—is extremely important for all families, and is especially important for low-income families who are moving from welfare to work.

While TANF focuses on moving families off cash assistance and into work, it fails to provide recipients with the tools they need to maximize their earnings and manage their expenses in order to achieve financial stability once they are employed. If we truly expect to move these families to achieve financial independence, we must give them the tools they will need to make that transition.

One of these tools is a bank account. Millions of low-income families remain outside of the formal banking system, with many of them spending too much of their hard-earned dollars at costly check cashing operations. In fact, more than eight million families earning under $25,000 a year lack a checking or savings account. A study conducted by the United States Department of the Treasury in 2000 found that a worker earning $12,000 a year would pay approximately $250 a year just to cash their payroll checks at such an outlet. And, nearly 16 percent of the checks cashed at check cashing outlets are government benefit checks—including welfare benefit checks.

In addition to expanding the number of banks that do business in low-income communities, educating low-income unbanked families about the benefits of formal checking and savings accounts can significantly improve access to financial services.

But, financial education isn't just about bank accounts and savings. It is also about protecting low-income families form predatory lending and devastating credit arrangements. Financial education that addresses abusive lending practices can help prevent unaffordable loan payments, equity stripping, and foreclosure. I strongly support legislative efforts to end predatory lending practices in our country, but until we do, ensuring that consumers are aware of unfair and abusive loan terms is a measure that will provide them some protection from these tactics.

Finally, families leaving welfare for work face many challenges, including securing child care and transportation. One challenge that often is not mentioned, however, is the challenge of transitioning from a benefits-based income to a wage income. Financial literacy programs that educate families transitioning from welfare to work about taxes and tax benefits that they may be eligible for, such as the Dependent Care Tax Credit and the Earned Income Tax Credit, will ensure that they have access to these important work benefits.

The Financial Literacy for Self-Sufficiency Act will allow States to use their TANF funds to collaborate with community-based organizations, banks, and community colleges to create financial education programs for low-income families receiving welfare and for those transitioning from welfare to work. As Federal Reserve Chairman Alan Greenspan Chairman Greenspan has noted, ''Educational and training programs may be the most critical service offered by community-based organizations to enhance the ability of low-income households to accumulate assets.''

I hope members of the Senate Finance Committee will join my colleagues and me in promoting financial education for our nation's TANF recipients when they act to create a reauthorization framework for our nation's welfare program.

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

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

S. 813

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 ''TANF Financial Education Promotion Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Most recipients of assistance under the temporary assistance to needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and individuals moving toward self-sufficiency operate outside the financial mainstream, paying high costs to handle their finances and saving little for emergencies or the future.

(2) Currently, personal debt levels and bankruptcy filing rates are high and savings rates are at their lowest levels in 70 years. The inability of many households to budget, save, and invest prevents them from laying the foundation for a secure financial future.

(3) Financial planning can help families meet near-term obligations and maximize their longer-term well being, especially valuable for populations that have traditionally been underserved by our financial system.

(4) Financial education can give individuals the necessary financial tools to create household budgets, initiate savings plans, and acquire assets.

(5) Financial education can prevent vulnerable customers from becoming entangled in financially devastating credit arrangements.

(6) Financial education that addresses abusive lending practices targeted at specific neighborhoods or vulnerable segments of the population can prevent unaffordable payments, equity stripping, and foreclosure.

(7) Financial education speaks to the broader purpose of the temporary assistance to needy families program to equip individuals with the tools to succeed and support themselves and their families in self-sufficiency.

SEC. 3. REQUIREMENT TO PROMOTE FINANCIAL EDUCATION UNDER TANF.

(a) STATE PLAN.—Section 402(a)(1)(A) of the Social Security Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

''(vii) Establish goals and take action to promote financial education, as defined in section 407(j), among parents and caretakers receiving assistance under the program through collaboration with community-based organizations, financial institutions, and the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.''.

(b) INCLUSION OF FINANCIAL EDUCATION AS A WORK ACTIVITY.—Section 407 of the Social Security Act (42 U.S.C 607) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or (12)'' and inserting ''(12), or (13)''; and

(B) in subparagraph (B), by striking ''or (12)'' each place it appears and inserting ''(12), or (13)'';

(2) in subsection (d)—

(A) in paragraph (11), by striking ''and'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(13) financial education, as defined in subsection (j).''; and

(3) by adding at the end the following:

''(j) DEFINITION OF FINANCIAL EDUCATION.—In this part, the term 'financial education' means education that promotes an understanding of consumer, economic, and personal finance concepts, including the basic principles involved with earning, budgeting, spending, saving, investing, and taxation.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2003.

By Mr. CONRAD (for himself, Mr. THOMAS, Mr. HARKIN, Mr. GRASSLEY, Mr. SMITH, Mr. ROCKEFELLER, Mr. ROBERTS, Mr. DASCHLE, Mr. DORGAN, Mr. DOMENICI, Mrs. LINCOLN, Mr. BURNS, Mr. BINGAMAN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEVIN, Mr. TALENT, Mr. DAYTON, Mr. BOND, Mr. EDWARDS, Mr. COCHRAN, Mr. PRYOR, Mrs. MURRAY, Ms. SNOWE, Mr. COLEMAN, and Ms. CANTWELL):

S. 816. A bill to amend title XVII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, today, Senator THOMAS and I would like to introduce the Health Care Access and Rural Equity, (H–CARE), Act of 2003.

This proposal is the result of a tripartisan and Bicameral effort. We are proud to be joined by 24 Members who also support the bill, including—Senators HARKIN, GRASSLEY, ROBERTS, DASCHLE, DORGAN, SMITH, JOHNSON, LINCOLN, DOMENICI, ROCKEFELLER, BURNS, BINGAMAN, JEFFORDS, COCHRAN, LEVIN, TALENT, EDWARDS, BOND, PRYOR, DAYTON, SNOWE, CANTWELL and MURRAY. I would also like to thank our House companions, led by Representatives MORAN (R–KS), and POMEROY.

Working together, I believe we are taking important steps toward improving access to health care in our rural communities.

In addition, I would like to thank the National Rural Health Association, the Federation of American Hospitals, the American Hospital Association, Premier Hospital Alliance and the Coalition representing Sole Community Hospitals for their support of this effort.

As my colleagues may know, rural health care providers are often forced to operate with significantly less resources that larger, urban facilities. In my State of North Dakota, rural hospitals often receive only half the reimbursement of their urban counterparts—for treating the same patient. For example, a rural facility in North Dakota receives approximately $4,200 for treating pneumona, while a hospital in New York City can receive more than $8,500.

This funding disparity is simply unfair and has placed many rural providers on shaky ground. Continued funding shortfalls have resulted in rural providers having much tighter inpatient cost margins than their urban counterparts—today, the average rural hospital operates with a slim 3.9 percent cost margin compared to 11.3 percent for urban providers). This situation has resulted in more than 43 percent of rural hospitals operating in the red.

When you look at overall cost margins, the situation is even more bleak—rural providers are working with an average negative 2.9 percent Medicare margin, compared to 6.3 percent for urban hospitals). Our rural facilities cannot continue to provide high quality services if they lose nearly 3 percent on every Medicare patient they serve.

To address these problems, the bill we are introducing today would take many important steps to improve the rural health care system.

First, it would provide a much-needed low-volume adjustment payment. Today, it is nearly impossible for rural hospitals to take advantage of economies of scale realized by facilities located in larger communities. This situation has resulted in the majority of small facilities losing money. To address this problem, our bill would provide a new, extra payment to hospitals serving less than 2,000 patients per year. This provision would provide up to 25 percent in additional funding to help rural providers cover inpatient hospital services.

Second, H–CARE would close the gap in payments hospitals receive for serving low-income patients. It would do this by allowing rural hospitals to receive the same level of special ''Disproportionate Share—or DISH Payments'' currently available to urban providers.

Third, our legislation would take steps to permanently equalize the ''base payment amount,'' which has been 1.6 times higher for urban facilities. The recent Omnibus bill temporarily fixed this problem—but only until the end of FY03. Our bill finishes the job.

Fourth, this legislation would help hospitals better meet labor costs by making some needed improvements to the Medicare ''wage index'' calculation. Across the Nation, rural hospitals have reported that the wage index does not accurately account for labor costs in their area. Our bill takes steps to address this problem.

Fifth, our bill would ensure that rural hospitals continue to be paid fairly for outpatient services. It does this by extending a provision in current law that protects these hospitals against losses under the current Medicare payment system. It also includes measures to protect rural hospitals' access to lab services.

I am happy to say that this set of proposals would go a long way toward placing rural facilities on much sounder financial footing. Let me provide some examples.

Today, the average small hospital located in the Midwest receives $3,926 as an average payment for inpatient services. If all the changes laid out in our bill are enacted, this will improve payments to smaller rural hospitals by about 25 percent.

If you look at a more specific service—such as treating pneumonia—this same hospital would see payments increase from about $4,326 to $5,405. These increases are clearly big improvements, which will bring reimbursements for rural hospitals more in line with their costs.

Before I close, I'd also like to mention that this bill would establish a new grant program to help rural hospitals repair crumbling buildings. Under this program, rural providers

could apply for up to $5m in loan assistance. It is my hope these resources will help strengthen the infrastructure of our Nation's rural hospitals.

Finally, our bill includes a set of provisions that will make small—but important—changes to the Critical Access Hospital, CAH, program. These include measures to ensure CAHs have 24-hour emergency on-call providers and to ensure they can afford to provide quality ambulance care.

In total, the changes laid out in our bill will bring more than $72 million in new resources to my State of North Dakota over the next ten years. The bill will provide similar benefits to other rural States.

Thank you again to my Senate and House colleagues, as well as the organizations who worked with us, for your cooperation in developing this important health care proposal. It is my hope that this legislation will help to strengthen and sustain our Nation's rural health care system.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Health Care Access and Rural Equity Act (H–CARE) of 2003'' with Senator CONRAD and fellow Senate Rural Health Caucus members, Senators HARKIN, GRASSLEY, JOHNSON, ROBERTS, DOMENICI, DASCHLE, BINGAMAN, BOND, LINCOLN, COCHRAN, BURNS, ROCKEFELLER, JEFFORDS, TALENT, LEVIN, SMITH, DAYTON, SNOWE, EDWARDS, CANTWELL, DORGAN, COLEMAN and MURRAY. As always, it is important to note that rural health care legislation has a long history of bipartisan and bicameral collaboration and cooperation.

The ''Health Care Access and Rural Equity Act of 2003'' will go a long way in addressing current inequities in the Medicare payment system that continually place rural providers at a disadvantage. This legislation recognizes the unique needs of rural hospitals and levels the playing field between them and their urban counterparts.

Rural hospitals are more dependent on Medicare payments as part of their total revenue. In fact, Medicare accounts for almost 70 percent of total revenue for small, rural hospitals. Rural hospitals have lower patient volumes, but must compete nationally to recruit providers due to the nursing and other health professional workforce shortages.

Additional burdens are placed on rural hospitals because of higher uninsured rates in rural America. Also, seniors living in rural areas tend to be poorer and have more chronic conditions than their urban and suburban counterparts.

H–CARE recognizes the special circumstances faced by rural hospitals and addresses these issues by equalizing Medicare Disproportionate Share Hospital, DSH, payments. These add-on payments help hospitals cover the costs of serving a high proportion of low income and uninsured patients. Current law allows urban facilities to receive unlimited add-ons based on the percentage of these types of patients served. However, small, rural hospital add-on payments are capped at 10 percent. H–CARE eliminates the Sole Community Hospital and small rural hospital caps, bringing their payments in line with the benefits urban facilities received.

This legislation permanently closes the gap between urban and rural ''standardized payment'' levels. Inpatient hospital payments are calculated by multiplying several different factors, including a standardized payment amount. The fiscal year 2003 appropriations bill corrected the 1.6 percent disparity, but the provision expires at the end of the fiscal year.

Our bill also acknowledges that low-volume hospitals have a higher cost per case, which results in negative operation margins. To alleviate this problem, H–CARE creates a low-volume inpatient payment adjustment for hospitals that have less than 2,000 annual discharges per year and are located more than 15 miles from another hospital. This provision will improve payments for more than one-third of all rural hospitals. Almost two-thirds of Wyoming hospitals would qualify for the low-volume provisions in H–CARE, which would result in $26.5 million in increased payments over 10 years.

Rural hospitals have long sought changes to the wage index which adjusts hospital inpatient payments to reflect the effect of their labor costs. Currently, the labor-related share of hospital inpatient payments is set nationally at 71 percent. As rural hospitals generally have a lower wage index than their urban counterparts, their inpatient payment is adjusted downward. H–CARE would lower the labor-related percent from 71 percent to 62 percent, which will increase payments to rural hospitals.

There are now more than 700 hospitals nationwide that have converted to Critical Access Hospital status. This program was created in the Balanced Budget Act of 1997 and allows our smallest communities crucial access to 24 hour emergency services and some hospital care in their home towns. Almost 25 percent of my State's hospitals have downsized to Critical Access Hospital status. H–CARE contains several provisions to strengthen this important rural hospital program.

It is time for the Federal Government to recognize that rural hospitals are long overdue for a fair shake from the Medicare program. Rural providers care for patients under different circumstances than urban hospitals and H–CARE ensures that rural hospitals are paid accurately and fairly. I strongly encourage all my colleagues with an interest in rural health to cosponsor this legislation.

I also want to thank the American Hospital Association, the Federation of American Hospitals, Premier and the National Rural Health Association for their work and support in this effort.

By Mr. KOHL:

S. 817. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Sunshine in Litigation Act of 2003, a measure to address the abuse of secrecy orders issued by federal courts. All too often, courts sign off on secret settlements that shield important public health and safety information from the public view from mothers and fathers and children whose lives are potentially at stake, and from public officials we have asked to protect our health and safety.

The problem is a simple one and has been recurring for decades. An individual brings a cause of action against a manufacturer for an injury or fatality resulting from a product defect. The plaintiff, often reticent to continue the litigation process because of grief or lack of resources, settles the lawsuit quickly. In exchange, the defendant insists that the plaintiff agree to the inclusion of a confidentiality clause. This mechanism prevents either party from disclosing information revealed during the process of litigation. Both of the parties to the lawsuit believe that they have ''won'': the plaintiff won a satisfactory financial settlement, and the defendant won the right to conceal ''smoking gun'' documents.

But not everybody wins. Future victims of injuries or fatalities resulting from the same product defect lose, because they or their families must ''reinvent the wheel'' as they litigate virtually the same case. Even worse, the American public loses with this outcome, because they remain unaware of the critical public health and safety information which could prevent harm and save lives.

Currently, judges have broad discretion in granting protective orders when ''good cause'' is shown. But these protective orders are being misused. Tobacco companies, automobile manufacturers and pharmaceutical companies have settled with victims and used the legal system to hide information which, if it became public, could protect the American public but endanger their business or reputation. We can all agree that the only appropriate use for such orders is to protect trade secrets and other truly confidential company information and our legislation makes sure it is protected. But protective orders are certainly not supposed to be used to hide public safety information from the public, especially when such information is neither trade secret nor proprietary.

There are no records kept of the number of confidentiality orders accepted by state or federal courts. However, anecdotal evidence suggests that court secrecy and confidential settlements are prevalent. Let me share some examples that illustrate the dangerous and often deadly consequences

that result from protective orders: Although an internal memo suggests that General Motors, ''GM'', was aware of the risk of fire deaths from crashes of pickup trucks with ''side saddle'' fuel tanks, an estimated 750 people were killed in fires involving these fuel tanks. When victims sued, GM disclosed documents only under protective orders and settled these cases only on the condition that these documents remained secret. This type of fuel tank was installed for 15 years before being discontinued.

Sixteen month-old Michael Bancroft was buckled into a Kolcraft booster-style safety seat in his mother's car when the car was involved in an accident. Due to a defect in product design, however, the seat did not protect him from a broken neck and paralysis. Kolcraft and the Bancrofts settled for $4.25 million and signed a confidentiality agreement that concealed the product's defect. Because this information remained a secret, countless parents continued to feel a false sense of safety when securing their children in Kolcraft safety seats.

From 1992–2000, tread separation of certain Bridgestone and Firestone tires caused a great number of car accidents, many involving serious injuries or fatalities. Bridgestone/Firestone quietly settled dozens of lawsuits resulting from faulty tire crashes, most of which included secrecy agreements. It was only in 1999, when a Houston public television broke the story, that the company admitted the defect and recalled 6.5 million tires.

Some States have been proactive in dealing with this problem. Florida, for example, has in place a Sunshine in Litigation law that severely limits the ability of parties to conceal information that effects public health and safety. Michigan has a rule that requires that secret settlements be unsealed two years after they are approved. And just last year, the judges of the United States District Court for the District of South Carolina unanimously agreed not to accept any secret settlements at all.

While these steps indicate movement in the right direction, we still have a long way to go. It is time to initiate a federal solution for this problem. The Sunshine in Litigation Act is a modest proposal that would require Federal judges to perform a simple balancing test to ensure that the defendant's interest in secrecy truly outweighs the public interest in information related to public health and safety. Specifically, prior to making any portion of a case confidential or sealed, a judge would have to determine by making a particularized finding of fact—that doing so would not restrict the disclosure of information relevant to public health and safety. Moreover, all courts, both Federal and State, would be prohibited from issuing protective orders that prevent disclosure to relevant regulatory agencies.

And don't just take it from me. During his confirmation hearings before the Judiciary Committee in January 2001, Attorney General John Ashcroft voiced his support for this legislation, saying, ''I think unnecessarily hiding or otherwise concealing from the public those [public health and safety hazards] would be against the interests of the people . . . I think there's great danger in not providing public information.''

This legislation does not prohibit secrecy agreements across the board. It does not place an undue burden on judges or our courts. It simply states that where the public interest in disclosure outweighs legitimate interests in secrecy, courts should not shield important health and safety information from the public and from regulators. This is an entirely reasonable balancing test. It is time to eliminate the dark dangers of court secrecy and bring matters of public health and safety into the light, where they belong.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Mr. PRYOR, and Mr. HARKIN:

S 818. A bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce the ''Independent Office of Advocacy Act of 2003.'' The SBA's Office of Advocacy is, unfortunately, one of our government's best kept secrets, and in many cases, the best hope for small businesses faced with over burdensome Federal regulations. The Office of Advocacy serves two critical roles: 1. it represents small business' interests before the Federal government in regulatory matters—taking advantage of its statutorily granted independence to argue against regulatory actions that impose too great a burden on small businesses to our economy and the forces that have an effect on them.

This bill is designed to build on the success achieved by the Office of Advocacy over the past 26 years and to strengthen that foundation by making the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. This bill was approved unanimously by the Senate during the 106th and 107th Congresses. However, regrettably, the House failed to act in both cases.

The Office of Advocacy, headed by the Chief Counsel for Advocacy, is a unique office with the Federal government. It is part of the SBA, and the Chief Counsel for Advocacy is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal Government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies in rulemaking activities. These roles can sometimes come into conflict.

The ''Independent Office of Advocacy Act of 2003'' resolves such conflicts in favor of the small businesses that rely on the Chief Counsel and the Office of Advocacy to be a fully independent advocate within the Executive Branch acting on their behalf. The bill would establish a clear mandate that the Office of Advocacy must fight on behalf of small businesses, regardless of the position taken on critical issues by the President and his or her Administration.

The Office of Advocacy, under the direction of the Chief Counsel, as envisioned by the ''Independent Office of Advocacy Act of 2003'', would be a wide-ranging advocate, free to take positions contrary to the Administration's policies and to advocate change in government programs and attitudes as they affect small businesses. During its consideration of the bill in 1999, the Committee on Small Business adopted unanimously an amendment to require the Chief Counsel to be appointed ''from civilian life.'' This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal government. Since then, the Office of Advocacy has become the ''independent'' voice for small business. Unfortunately, in certain cases, the Office has not been as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy currently comes from the Salaries and Expense Account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. The current allocation of staff is 49, and fewer are actually onboard as the result of the long-standing hiring freeze at the SBA. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

To address this problem, the ''Independent Office of Advocacy Act of 2003'' builds a firewall to prevent political intrusion into the management of day-to-day operations of the Office of Advocacy similar to the one that protects Inspectors General. The bill would require the Federal budget to include a separate account for the Office of Advocacy drawn directly from General Fund of the Treasury. No longer would its funds come from the general operating account of the SBA. This will free the Chief Counsel for Advocacy from having to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

Additionally, the bill provides that any funds appropriated will remain available without fiscal year limitation until expended. This will give the Chief Counsel the flexibility to use these funds as necessary instead of being forced to spend them, perhaps prematurely, because of the coming end of a fiscal year.

The bill would leave unchanged current law that allows the Chief Counsel to hire individuals critical to the mission of the Office of advocacy without going through the normal competitive procedures directed by Federal law and the Office of Personnel Management, OPM. This long-standing special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the Office in responding to changing issues and problems confronting small businesses.

As the New Chair of the Senate Committee on Small Business and Entrepreneurship, I have heard repeatedly about the importance of the Office of Advocacy and the vital role it plays for small enterprises and the self employed across the nation. With these comments in mind, I am committed to ensuring the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small businesses. However, so long as any administration controls the budget allocated to the Office of Advocacy, the independence of the Office may be in jeopardy. We must correct this situation, and the sooner we do it, the better it will be for the small business community.

In addition to resolving the critical funding issues, the ''Independent Office of Advocacy Act of 2003'' would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act, RFA, to the President, the Senate Committee on Small Business and Entrepreneurship, House Committee on Small Business, the Senate Committee on Governmental Affairs, the House Committee on Government Reform, and the Senate and House Committees on the Judiciary.

The RFA is a very important weapon in the war against the over-regulation of small businesses. It requires agencies to analyze their regulations to determine their impact on small businesses before they are proposed and to explore alternatives to reduce the regulatory burden. In August, 2002, President Bush issued Executive Order 13272, which requires Federal agencies to establish plans detailing how they will handle their obligations under the Regulatory Flexibility Act and directs the Office of Advocacy to work with the agencies in developing these plans. In addition, the Executive Order directs the agencies to respond to comments from the Office of Advocacy regarding the agencies' analyses. Thus, there is even more reason today to have the Chief Counsel report to the President and Congress on how Federal agencies are complying with the Regulatory Flexibility Act than there was when this bill was introduced in previous Congresses.

The ''Independent Office of Advocacy Act of 2003'' is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me; the former Chairman of the Committee on Small Business and Entrepreneurship, Senator BOND; staff of the Committee; representatives of the small business community; former Chief Counsels for Advocacy and many others. In short, this bill has been thoroughly vetted in my Committee and has been approved unanimously by the Senate in 1999 and 2001. It is time we see this bill enacted into law, and I urge my colleagues to support this important legislation for America's small businesses and entrepreneurs. I look forward to moving this bill through the Senate again, and hope that the third time will lead to the President's desk.

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. 818

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 ''Independent Office of Advocacy Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business concerns;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small entities;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the ''Office'') is an effective advocate for small entities, including small business concerns, that can help to ensure that agencies are responsive to small business concerns and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small business concerns without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small business concerns; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small business concerns.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business concerns;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small business concerns and the necessity for corrective action by the regulatory agency or the Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to the Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

SEC. 4. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

''SEC. 201. SHORT TITLE.

''This title may be cited as the 'Office of Advocacy Act'.

''SEC. 202. DEFINITIONS.

''In this title—

''(1) the term 'Administration' means the Small Business Administration;

''(2) the term 'Administrator' means the Administrator of the Small Business Administration;

''(3) the term 'Chief Counsel' means the Chief Counsel for Advocacy appointed under section 203;

''(4) the term 'Office' means the Office of Advocacy established under section 203; and

''(5) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

''SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

''(2) APPROPRIATION REQUESTS.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office of Advocacy, which shall be designated in a separate account in the General Fund of the Treasury.

''(b) CHIEF COUNSEL FOR ADVOCACY.—

''(1) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

''(2) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel may not serve as an officer or employee of the Administration during the 5-year period preceding the date of appointment.

''(c) PRIMARY FUNCTIONS.—The Office shall—

''(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

''(2) assess the effectiveness of Federal subsidy and assistance programs for small business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance

programs designed to benefit all small business concerns;

''(3) measure the direct costs and other effects of government regulation of small business concerns, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small business concerns;

''(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns to realize their potential for contributing to the improvement of the Nation's economic well-being;

''(5) study the ability of financial markets and institutions to meet the credit needs of small business concerns, and determine the impact of government demands on credit for small business concerns;

''(6) determine financial resource availability and recommend, with respect to small business concerns, methods for—

''(A) delivery of financial assistance, including methods for securing equity capital, to small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(B) generating markets for goods and services;

''(C) providing effective business education, more effective management and technical assistance, and training; and

''(D) assistance in complying with Federal, State, and local laws;

''(7) evaluate the efforts of Federal agencies and the private sector to assist small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(8) make such recommendations as may be appropriate to assist the development and strengthening of small business concerns—

''(i) owned and controlled by socially and economically disadvantaged individuals;

''(ii) owned and controlled by women;

''(iii) owned and controlled by veterans; or

''(iv) designated as HUBZone small business concerns by the Administration;

''(9) recommend specific measures for creating an environment in which all small business concerns will have the opportunity—

''(A) to compete effectively and expand to their full potential; and

''(B) to ascertain any common reasons for the successes and failures of small business concerns;

''(10) determine the desirability of developing a set of rational, objective criteria to be used to define the term 'small business concern', and develop such criteria, if appropriate;

''(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

''(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by service-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

''(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

''(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small business concerns;

''(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business and the Federal Government;

''(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this title and communicate such proposals to the appropriate Federal agencies;

''(4) represent the views and interests of small business concerns before other Federal agencies whose policies and activities may affect small business;

''(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns, and information on the means by which small business concerns can participate in or make use of such programs and services; and

''(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

''(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.''.

(b) REPORTS TO CONGRESS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

''SEC. 206. REPORTS TO CONGRESS.

''(a) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives, a report on agency compliance with chapter 6 of title 5, United States Code.

''(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

''(c) PROHIBITION.—No report under this title shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to the Congress.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

''SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this title, such sums as may be necessary for each fiscal year.

''(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.''.

(d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 203 of the Office of Advocacy Act, as amended by this section.

Mr. KERRY. Mr. President, I am pleased to join with my friend and colleague, Chairwoman of the Senate Committee on Small Business and Entrepreneurship, OLYMPIA SNOWE, in reintroducing the ''Independent Office of Advocacy Act'', which our Committee and the full Senate endorsed unanimously last Congress. This legislation will help ensure the Small Business Administration's, SBA, Office of Advocacy has the necessary autonomy to remain an independent voice for America's small businesses. I would like to thank Senator SNOWE and her staff for working with me and my staff to make the necessary changes to this legislation to garner bipartisan support.

The independent Office of Advocacy Act rewrites the law that created the Small Business Administration's Office of Advocacy to allow for increased autonomy. It reaffirms the Office's statutory and financial independence by creating a separate funding account for the Office from the General Fund of the Treasury instead of being allocated through the SBA's annual appropriation.

At its heart, this legislation will allow the Office of Advocacy to better represent small business interests before Congress, Federal agencies, and the Federal Government without fear of reprisal for disagreeing with the position of any current Administration.

For those of my colleagues without an intimate knowledge of the critical role the Office of Advocacy and its Chief Counsel play in protecting and promoting America's small businesses, I will briefly elaborate its important functions and achievements. From studying the role of small business in the U.S. economy, to promoting small business exports, to advocating for the best interests of small business in a myriad of areas, to lightening the regulatory burden of small businesses through the Regulatory Flexibility Act, RFA, and the Small Business Regulatory Enforcement Fairness Act, SBREFA, the Office of Advocacy has a wide scope of authority and responsibility.

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel to be appointed by the President from the private sector and confirmed by the Senate, in June of 1976. The rationale was to give small businesses a louder voice in the councils of government.

Each year, the Office of Advocacy advises Congress and the executive branch regarding policy issues affecting small businesses, brings together

small business people with members of Congress, congressional staff and executive branch officials to resolve issues affecting small business, publishes numerous studies and reports, compiles vast amounts of data and successfully lightens the regulatory burden on America's small businesses. In the area of contracting, the Office of Advocacy developed PRO-Net, a database of small businesses used by Federal contracting officers to find small business interests interested in selling to the Federal Government.

The U.S. Congress, the Administration, and, of course, small businesses have all benefited from the work of the Office of Advocacy. In October 2001, an Advocacy research study titled, The Impact of Regulatory Costs on Small Business, established that small businesses with less than 20 employees spend nearly $7,000 each year, per employee just to comply with Federal regulations and mandates. By working with Federal agencies to implement the Regulatory Flexibility Act, the Office of Advocacy in 2002 saved small businesses over $21 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans.

Small businesses remain the backbone of the U.S. economy. According to a study conducted by the Small business Administration Office of Economic Research and released in January 2003, small businesses account for approximately 99 percent of all employers, account for 51 percent of private-sector output, represent 52 percent of GDP and, in 2002, provided two-thirds of all net new jobs.

Small businesses have also taken the lead in moving people from welfare to work and an increasing number of women and minorities are turning to small business ownership as a means to gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

Their interests are vast, their activities divergent, and the difficulties they face to stay in business are numerous. To provide the necessary support to help them, SBA's Office of Advocacy needs our support.

The responsibility and authority given the Office of Advocacy and the Chief Counsel are crucial to their ability to be an effective independent voice in the Federal Government for small businesses. This bill has been endorsed by the U.S. Chamber of Commerce, the Small Business Legislative Council and the National Federation of Independent Businesses. Small businesses are asking us to do everything we can to protect and strengthen this essential office. I believe this legislation accomplishes that important goal.

I have always been a strong supporter of the Office of Advocacy and I am pleased to join with Chairwoman SNOWE in introducing this legislation, which will ensure that the Office of Advocacy remains an independent and effective voice representing America's small businesses.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. LEAHY, and Mr. CAMPBELL):

S. 819. A bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, I rise today to introduce the Law Enforcement Officers Retirement Equity act of 2003. I am proud to be joined on this bill by my colleagues, Senators SARBANES, LEAHY and CAMPBELL. This legislation will ensure that all Federal law enforcement officers have the same retirement options and that their pay and benefits conform with the Federal law enforcement retirement system.

Under current law, most Federal law enforcement officers and firefighters are eligible to retire at age 50 with 20 years of Federal service. But, some Federal law enforcement personnel, such as customs and immigration inspectors at the Department of Homeland Security or police officers at Veterans Affairs, are not eligible for these same benefits. This legislation will amend current law and grant the same pay and 20-year retirement to all law enforcement officers.

We must honor our Federal law enforcement personnel. The names of Federal law enforcement officials who have died in the line of duty are engraved on the Law Enforcement Memorial. We include the names of the officers from Homeland Security and Veterans Affairs. We honor them when they die, but we don't recognize them when they are living.

We need to make sure that all Federal law enforcement officers earn the pay and benefits that they deserve. These brave men and women are the country's first line of defense against terrorism and the smuggling of illegal drugs at our borders. They have the same law enforcement training as all other law enforcement personnel, and face the same risks and challenges.

For example, U.S. Customs inspectors are responsible for the most arrests performed by Customs Service employees. Yet, they do not qualify for law enforcement officer status. Along with U.S. customs agents, uniformed U.S. Customs inspectors are helping provide additional security at the Nation's airports and help enforce U.S. customs laws. They were among the first to respond to the tragedy at the World Trade Center. After September 11, Customs inspectors are playing a critical role in ensuring that terrorists don't get their hands on weapons of mass destruction and smuggle them into the country.

In 2002, the U.S. Custom Service impounded over 4,100 pounds of heroin and 167,000 pounds of cocaine, and confiscated over 39,000 firearms and 6.4 million rounds of ammunition. In fact, on a typical day, employees of the Customs Service inspect over 57,000 trucks and containers. Customers inspectors are vital in winning the war on drugs and keeping America safe from terrorism.

Like customs inspectors, immigration inspectors at the Department of Homeland Security are also on the front lines of defense against terrorism. Immigration inspectors enforce the Nation's immigration laws at more than 300 ports of entry. In the normal course of their duties, they enforce criminal law, make arrests, interrogate applicants for entry, search persons and effects, and seize evidence. Inspector's responsibilities have become increasing complex as political, economic and social unrest has increased globally. The threat of terrorism only increases these responsibilities.

These immigration inspectors help secure our borders. In FY 2001, over 510 million inspections were performed by these inspectors with 700,000 individuals denied entry, and approximately 71,000 criminal aliens were removed from the country.

This legislation is cost effective. Any cost that is created by this act is more than offset by savings in training costs and increased revenue collection. A 20-year retirement bill for these critical employees will reduce turnover, increase productivity, decrease employee recruitment and development costs, and enhance the retention of a well-trained and experienced work force. These vital Federal employees bear the same risks and work under similar conditions to other law enforcement officials and deserve to receive the same level of benefits.

This bill will improve the effectiveness of our inspector and revenue officer work force to ensure the integrity of our borders and proper collection of the taxes and duties owed to the Federal Government. This bill is supported by the Fraternal Orders of Police and the National Treasury Employees Union. I urge my colleagues to join me again in this Congress in expressing support for this bill and finally getting it enacted.

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. 819

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 ''Law Enforcement Officers Retirement Equity Act''.

SEC. 2. AMENDMENTS.

(a) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended by striking ''and'' at the end of subparagraph (C), and by adding at the end the following:

''(E) an employee (not otherwise covered by this paragraph)—

''(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

''(ii) who is authorized to carry a firearm; and

''(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;''.

(2) CONFORMING AMENDMENT.—Section 8401(17)(C) of title 5, United States Code, is amended by striking ''(A) and (B)'' and inserting ''(A), (B), (E), and (F)''.

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by inserting after ''position.'' the following: ''For the purpose of this paragraph, the employees described in the preceding provision of this paragraph (in the matter before 'including') shall be considered to include an employee (not otherwise covered by this paragraph) who satisfies clauses (i) and (ii) of section 8401(17)(E) and an employee of the Internal Revenue Service the duties of whose position are as described in section 8401(17)(F).''.

(c) EFFECTIVE DATE.—Except as provided in section 3, the amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply only in the case of any individual first appointed (or seeking to be first appointed) as a law enforcement officer (within the meaning of those amendments) on or after such date.

SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.

(a) LAW ENFORCEMENT OFFICER AND SERVICE DESCRIBED.—

(1) LAW ENFORCEMENT OFFICER.—Any reference to a law enforcement officer described in this subsection refers to an individual who satisfies the requirements of section 8331(20) or 8401(17) of title 5, United States Code (relating to the definition of a law enforcement officer) by virtue of the amendments made by section 2.

(2) SERVICE.—Any reference to service described in this subsection refers to service performed as a law enforcement officer (as described in this subsection).

(b) INCUMBENT DEFINED.—For purposes of this section, the term ''incumbent'' means an individual who—

(1) is first appointed as a law enforcement officer (as described in subsection (a)) before the date of the enactment of this Act; and

(2) is serving as such a law enforcement officer on such date.

(c) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(1) IN GENERAL.—Service described in subsection (a) which is performed by an incumbent on or after the date of the enactment of this Act shall, for all purposes (other than those to which paragraph (2) pertains), be treated as service performed as a law enforcement officer (within the meaning of section 8331(20) or 8401(17) of title 5, United States Code, as appropriate), irrespective of how such service is treated under paragraph (2).

(2) RETIREMENT.—Service described in subsection (a) which is performed by an incumbent before, on, or after the date of the enactment of this Act shall, for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, be treated as service performed as a law enforcement officer (within the meaning of such section 8331(20) or 8401(17), as appropriate), but only if an appropriate written election is submitted to the Office of Personnel Management within 5 years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (c)(2) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election under subsection (c)(2), service (described in subsection (a)) performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (c)(2), the agency in or under which that individual was serving at the time of any prior service (referred to in subsection (d)) shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (d)(3).

(f) EXEMPTION FROM MANDATORY SEPARATION.—Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer (as described in subsection (a)) before the end of the 3-year period beginning on the date of the enactment of this Act.

(g) REGULATIONS.—The Office of Personnel Mangement shall prescribe regulations to carry out this Act, including—

(1) provisions in accordance with which interest on any amount under subsection (d) or (e) shall be computed, based on section 8334(e) of title 5, United States Code; and

(2) provisions for the application of this section in the case of—

(A) any individual who—

(i) satisfies paragraph (1) (but not paragraph (2)) of subsection (b); and

(ii) serves as a law enforcement officer (as described in subsection (a)) after the date of the enactment of this Act; and

(B) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual under subparagraph (A), who dies before making an election under subsection (c)(2)), to the extent of any rights that would then be available to the decedent (if still living).

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply in the case of a reemployed annuitant.

By Mrs. BOXER:

S. 820. A bill to amend the Federal Water Pollution Control Act to establish a perchlorate pollution prevention fund and to establish safety standards applicable to owners and operators of perchlorate storage facilities; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation guaranteeing a community's right-to-know about pollution discharges, seepage and potential drinking water contamination by the toxic chemical perchlorate.

Perchlorate is the main ingredient in rocket fuel, which accounts for 90 percent of its use. Perchlorate is also used in lesser amounts for ammunition, fireworks, and other products. It dissolves readily in many liquids, including water, and moves easily and quickly.

The sources of drinking water for up to 10 million Californians and millions of other Americans are contaminated with perchlorate. Alarming levels of perchlorate have been discovered in Lake Mead and the Colorado River, the drinking water source for millions of Southern Californians. Communities in the Inland Empire, San Gabriel Valley, Santa Clara Valley, and the Sacramento area are also grappling with perchlorate contamination. In addition, more than 20 million Americans in at least 19 states drink water contaminated with perchlorate.

Perchlorate is a clear and present danger to California's public health. Perchlorate poses a variety of serious health risks relating to thyroid function, especially in newborns, children, and pregnant women. Exposure to perchlorate interferes with the thyroid gland's ability to produce the hormones needed for normal prenatal development. This can cause both physical and mental retardation. Perchlorate is also linked to thyroid cancer.

Despite the gravity of the situation, we currently have no way of knowing who is dumping it or where they are dumping it. We cannot wait four more years to address this threat while EPA continues to delay regulation and clean ups. Communities need to get moving to protect their drinking water sooner rather than later. Guaranteeing a community the right-to-know about potential perchlorate contamination is a first step.

My bill would do just this. First, my bill addresses the legacy of perchlorate contamination by requiring anyone who has stored more than 375 pounds of perchlorate since January 1, 1950, to report annually to the U.S. EPA, beginning no later than June 1, 2005. This does not apply to facilities that store

perchlorate for a retail or law enforcement purpose. EPA must annually publish the list of all perchlorate storage facilities in existence since January 1, 1950, beginning no later than June 1, 2005.

Second, my bill would also require anyone who discharges perchlorate into the water to report the discharge, its volume, monitoring methods, and remedial actions to the EPA. EPA must publish this information annually in the Federal Register beginning no later than June 1, 2005.

Third, failure to report as required under my bill would result in fines. All fines will be deposited into a loan fund for public water suppliers and private well owners to pay for clean water when their water supply is shut down because of perchlorate contamination.

Communities have a right to know what is in their water and where it comes from. My bill will ensure that communities have the necessary information to act now to address the health threat of perchlorate. I look forward to working with my colleagues to pass this important legislation.

By Mr. HARKIN:

S. 821. A bill to accelerate the commercialization and widespread use of hydrogen energy and fuel cell technologies, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, imagine a world with cars that spew out no smog, no toxic emissions, and no greenhouse gases. The only thing that would come out of the tailpipe would be water pure enough to drink.

Imagine a world in which we don't import a drop of Mideast oil, because clean, domestic, renewable energy sources meet all of our needs.

Imagine a world in which we don't need to worry about a terrorist strike on our large nuclear power plants, or a storm causing a blackout over a large region, because we get all of our electricity from small distributed generators on farms and in buildings throughout the country.

Sound too good to be true? The technology to do this, using hydrogen energy and fuel cells, is out of the labs and being tested on our streets and in our buildings today. For those of us who have been working for many years to bring this vision into reality, that is very exciting. But we still need a major effort to bring the costs down and commercialize the technology.

And there is remarkable bipartisan agreement on the need for government action. A couple years ago we were fighting for scraps of funding. Now the President has proposed $1.7 billion over 5 years toward getting hydrogen fuel cell vehicles on the road. The Senate energy bill last year, before it died in conference, included tax incentives for stationary fuel cells, fuel cell vehicles, hydrogen vehicles, hydrogen fueling infrastructure, and hydrogen fuel.

But we are still too timid to bring about the fundamental shift to the hydrogen economy. The Department of Energy is working toward a go-no go decision by the car companies by 2015, and mass production of vehicles by 2020. But the car companies themselves have been talking about commercial vehicles by 2010.

We need a bolder, more comprehensive plan. That's why I am introducing the Hydrogen and Fuel Cell Energy Act of 2003. This bill addresses three critical requirements to bringing hydrogen energy and fuel cells into commerce, and start gaining their environmental and security benefits, as soon as technically feasible.

First we need a technological push. We need better fuel cell stack components to reduce costs and improve longevity. We need lighter, more efficient ways to store hydrogen on-board vehicles. In the long term, we need cheaper ways of converting renewable energy to hydrogen fuel.

This bill reauthorizes the Matsunaga Act, which established the Federal hydrogen energy research program. It updates the language and sets clearer priorities. It expands the authorization to cover fuel cell research and development as well, to reflect the technical and bureaucratic reality that research on fuel cells—the most efficient, flexible, and cleanest way to use hydrogen energy—has become inextricably linked to research on hydrogen energy. It supports work on domestic and international codes and standards, to work through a major regulatory barrier to working with combustible hydrogen and to making all the infrastructure pieces fit together. It includes a specific mandate to do public education on hydrogen and fuel cells and to do university training in critical skills needed in the industry. And it increases funding levels over the next few years to accelerate progress in pre-commercial technologies.

Second, and perhaps most important right now, we need a near-term demand pull. As long as the fuel cells and hydrogen appliances are made by hand, they will remain very expensive. But it's also expensive to build the factories to build them more cheaply. We need support to get industry over that initial cost hump.

The first step is large demonstration programs that serve a dual purpose: they provide a realistic test of how the laboratory technologies work in the real world, and they provide funding for pre-commercial prototypes of the technologies, including starting to build a hydrogen fueling infrastructure.

The Hydrogen and Fuel Cell Energy Act authorizes several new, large demonstration programs:

The main demostration program would provide over $1 billion over 7 years for demonstrations of the full range of fuel cell applications and associated hydrogen infrastructure. These demonstrations would include fleets of fuel cell passenger vehicles, fuel cell buses and farm vehicles, stationary fuel cells in houses and commercial buildings, and portable fuel cells such as auxiliary power units in trucks.

A second, closely related program, would provide hydrogen fueling infrastructure over major transportation corridors and entire regions, and then demonstrate hydrogen-powered vehicles that are not tethered to a single pump. Early demonstrations, at least, would likely use vehicles that burn hydrogen; these are similar to gas-electric hybrids that you can buy today, but run on hydrogen rather than gasoline. These vehicles provide most of the benefits of fuel cell vehicles at a fraction of the current cost. They are not as good as fuel cell vehicles in the long term, they are less efficient, less flexible, and produce a little pollution, but would move us a long way toward the goal and would provide a good large-scale test of a hydrogen fueling system.

A third program would demonstrate hydrogen and fuel cell technologies in foreign countries. Hydrogen energy could have an early application in places where a competing fossil fuel infrastructure is not already well-developed. And assisting this application is in our national interest in order to promote global development without causing global warming and other harmful environmental effects, and to increase the global market for American hydrogen and fuel cell technologies.

The last program would focus on emerging technologies for production of hydrogen from renewable resources. Two approaches show particular promise for clean, efficient production of hydrogen at this time. Biorefineries make hydrogen and other products from biomass. And in ''electrofarming'' the hydrogen is produced and used on the same farm. The hydrogen might be made by growing and reforming biomass, from wind energy, or from farm waste; it could be used in farm vehicles and equipment and for heat and electricity in farm buildings.

All these demonstration programs would be conducted using competitive merit review of funding proposals from a wide variety of companies and organizations, and they would require cost-sharing from awardees.

Third, we need to show there will be a market for commercial hydrogen and fuel cell technologies in the long term. The Federal Government can do this by buying early commercial products and by providing incentives to others to do so, in recognition of their public benefits.

The bill includes Federal purchase requirements for both zero emission vehicles and stationary fuel cells. The vehicle requirements are similar to Federal fleet requirements for purchase of alternative fuel vehicles. They would require zero emission vehicles, most likely hydrogen fuel cell vehicles, to make up an increasing percentage of Federal fleet vehicle purchases up to 75 percent. Alternative fuel vehicles with very low emissions, such as hydrogen hybrid vehicles, would get partial credit. For stationary fuel cells, the bill

would require modifying energy efficiency regulations for Federal buildings to presume use of fuel cells to power new Federal buildings and to encourage their use in older buildings.

The bill also provides a broad array of tax incentives for stationary and portable fuel cells, hydrogen and fuel cell vehicles, hydrogen fueling infrastructure, and hydrogen fuel. These incentives are similar to those that have been proposed in the CLEAR Act on alternative fuel vehicles, in previous bills on stationary fuel cells, and in last year's energy bill. However, this bill makes some important changes. It makes all the tax credits tradable so that government agencies and nonprofit organizations can use them as well as consumers and private companies. It increases the credit for hydrogen fueling infrastructure to recognize the cost of making the hydrogen onsite, not just pumping it. It adds an additional incentive for hydrogen from renewable resources to encourage a transition to a sustainable hydrogen system. And most importantly, it extends the tax credits so the industry will know the incentives will be there when they are needed—when real commercial products are available.

Finally, the bill ensures effective coordination and oversight of the expanded Federal hydrogen and fuel cell energy activities, with a new interagency task force to coordinate activities, a revamped technical advisory panel, and periodic outside review by the National Academies.

These measures will require a significant Federal investment in our energy future. But with these measures we can use hydrogen and fuel cell technologies to turn into reality a vision of cars that don't pollute, of power that won't go out, and of feeling less dependent on an area of the world where we are fighting the second war in recent years. It is time to take these steps now.

By Mr. KERRY (for himself, Mr. HARKIN, Ms. LANDRIEU, Mr. PRYOR, Mr. LIEBERMAN, Mr. DASCHLE, Mr. BINGAMAN, and Mr. JOHNSON):

S. 822. A bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, with most of the country's attention focused on the war in Iraq, important issues at home are falling through the cracks. Today I rise to talk about one of the needs of working moms and dads and their children—child care. We have a shortage of childcare in this country, and it is a problem for our families, a problem for our businesses, and a problem for our economy. The Census Bureau estimates that there are approximately 24 million school age children with parents who are in the workforce or pursuing education, and the numbers are growing. There has been a 43 percent increase in dual-earner families and single parent families over the last half a century. As parents leave the home for work and education, the need for quality child care in America continues to increase.

As the Ranking Democrat of the Committee on Small Business and Entrepreneurship, I think we can foster the establishment and expansion of existing child care businesses through the Small Business Administration, SBA. Today with Senators HARKIN, LANDRIEU, PRYOR, LIEBERMAN, DASCHLE, BINGAMAN, and JOHNSON. I am introducing the Child Care Lending Pilot Act of 2003, a bill to create a three-year pilot that allows small, nonprofit child care providers to access financing through SBA's 504 loans.

There is a real need to help finance the purchase of buildings, to expand existing facilities and improve the conditions of established centers to meet the demand for child care. It is appropriate to provide financing through the 504 program because it was created to spur economic development and rebuild communities, and child care is critical to businesses and their employees. Financing through 504 could spur the establishment and growth of child care businesses because the program requires the borrower to put down only between 10 and 20 percent of the loan, making the investment more affordable. Another advantage of 504 loans is that they have terms of up to 20 years, with fixed interest rates, allowing small businesses to keep their monthly payments low and predictable.

As anyone with children knows, quality childcare comes at a very high cost to a family, and it is especially burdensome to low-income families. The Children's Defense Fund has estimated that child care for a 4-year-old in a child care center averages $4,000 to $6,000 per year in cities and states around the Nation. In all but one state, the average annual cost of child care in urban area child care centers is more than the average annual cost of public college tuition.

These high costs make access to child care all but non-existent for low-income families. While some states have made efforts to provide grants and loans to assist childcare businesses, more must be done to increase the supply of childcare and improve the quality of programs for low-income families. According to the Child Care Bureau, state and federal funds are so insufficient that only one out of 10 children in low-income working families who are eligible for assistance under federal law receives it.

For parts of the country, when affordable child care is available, it is provided through non-profit child care businesses. I formed a task force in my home state of Massachusetts to study the state of child care, and of the many important findings, we discovered that more than 60 percent of the child care providers are non-profit and that there is a real need to help them finance the purchase of buildings or expand their existing space. Child care in general is not a high-earning industry, and the owners don't have spare money lying around. Asking centers to charge less or cut back on employees is not the way to make child care more affordable for families and does not serve the children well. An adequate staff is needed to make sure children receive proper supervision and support. Furthermore, if centers are asked to lower their operating costs in order to lower costs to families, the safety and quality of the child care provided would be in jeopardy.

I urge my colleagues to join us in supporting this legislation so non-profit childcare providers can access funds to start new centers or expand and improve upon existing centers. As we have done in Massachusetts, Senators could bring together 504 lenders, childcare providers not for-profit and non-profit—and the state department of child welfare to facilitate the increase of childcare providers in their states.

As common sense tells us, and the child advocates if we listen, there is no magic bullet to addressing the shortage of safe and affordable child care in this country—it takes coordinated and complementary efforts to make a real difference. This is as much a child welfare issue as a workforce issue, and it makes sense to leverage one of SBA's effective resources to try and contribute to making a positive difference. I argue—we argue—that allowing nonprofit child care centers to receive SBA loans can increase the availability of child care in the United States. Nonprofit child care centers provide the same quality of care as the for-profit centers, and non-profit centers often serve our nation's neediest communities. I hope that my colleagues will recognize the vital role that early education plays in the development of fine minds and productive citizens and realize that in this great nation, child care should be available to all families in all income brackets.

I ask unanimous consent that several letters of support be printed in the RECORD. These letters demonstrate that this is a good investment and good for our country.

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

OMNI BANK, N.A.,
Houston, Texas, July 30, 2002.

Hon. JOHN F. KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY: Please accept this letter as my full support of the bill, soon to be introduced, proposing a Pilot Program, operating through the Small Business Administration's 504 Loan Program, that would allow Day Care facilities designated as nonprofits to be eligible for the program.

I believe the demand for such a product is strong, and is fiscally sound. My reasons are as follows:

1. Day Care Centers must carry a non-profit designation in order to accept children to the center from low-income families.

2. These businesses benefit low-income neighborhoods and enterprise zones by purchasing property, improving the physical appearance of the community and providing safe facilities for the children. The ability to utilize the SBA–504 program would enable these businesses to decrease lease/payment expense and hence, help more children.

3. These families are in the most need for quality day care facilities in their community, since many use mass transit to get to work.

4. Small businesses have provided most of the job growth in this country in the last ten years. By enabling these Day Care Centers to operate efficiently and provide quality facilities, we will be helping small business gain and maintain employees.

5. Designation as a non-profit business does not equate to an inability to pay loans, or other business expenses.

OMNIBANK, a 50-year-old community bank in Houston, Texas, has experienced a consistent demand for loans to Day Care Centers. Most loan requests from these entities are for the purpose of acquiring or expanding property (real-estate) or acquiring transportation equipment. An example of a specific, recent request follows:

The Executive Director and Owner of Teeter Totter Day Care Center approached OMNIBANK about a loan to purchase the building used to house the Center. The owner, an African-American woman, was experienced in this business. Cash flow to service the debt was sufficient and appropriate under prudent leading guidelines. The only deterrent from making a conventional loan was the amount available for down payment. Twenty percent or more is usually required.

Under the SBA–504 Program, a ten percent down payment is allowed and standard procedure for multi-use buildings. Additionally, it offers a fixed rate on the SBA portion of the loan. Most small businesses do not have access to fixed rate mortgages, due to the size of the loan requests, which enhances the attractiveness of the SBA–504 Program even further.

As we were preparing the request package, we realized that a non-profit did not quality. The owner would personally guarantee the loan, and even agreed to form a for profit corporation to hold the property, because the underlying tenant was non-profit it would not work. The owner could not change Teeter Totter into a for profit corporation without jeopardizing its subsidies for low-income children.

OMNIBANK and the day care center are located in Houston's fifth ward, most of which is classified as low to moderate income. Its population is primarily low-income African Americans and Hispanics. The project was viewed by the Bank as a good loan from a business perspective, with many additional benefits to the community at large.

Ultimately, after appealing to SBA for an exception, and spending a great deal of time on the project, the loan was not completed. This delayed a good project from improving many aspects of an already underserved community, due to a simple tax classification.

As stated earlier, OMNIBANK receives consistent requests from day care centers, most of which are non-profit. I believe that a Pilot Program as proposed, will prove that these are viable and valuable businesses. I would recommend that all other standard criteria, proven track record, cash flow, management expertise, etc. remain.

I look forward to any questions you may have, or any further examples I can provide.

Sincerely,

JULIE A. CRIPE
President and Chief Operating Officer.

GUILD OF ST. AGNES,
Worcester, MA, July 3, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: It has come to my attention that your committee is working on legislation that would expand the SBA 504 loan program to non-profit child care centers.

As the Executive Director of the Guild of St. Agnes Child Care Agency and a member of the Advisory Committee on Child Care and Small Business, wholeheartedly support this legislation. The Guild of St. Agnes is a non-profit child care agency providing child care in Worcester, MA and its surrounding towns. Presently we care for 1200 children aged four weeks to twelve years in child care centers, family care providers' homes and public schools. Of our seven centers, we currently own one.

Four of our centers are in old, worn-down buildings, causing us difficulty in recruiting new clients. As we look towards the future, the Guild of St. Agnes has set a goal of replacing these centers with new buildings. In order to accomplish this goal, we need to look for creative funding sources to support our capital campaign. The SBA 504 loan program would allow us to invest 10 percent of our own funds for capital expenses, borrow 50 percent from the government and secure a bank loan for 40 percent. Not only is this loan program attractive to banking institutions, it allows child care agencies like the Guild of St. Agnes to continue to grow during these economically challenging times.

I urge you to support the SBA 504 loan program legislation. The future of non-profit child care agencies such as the Guild of St. Agnes depends no it!

Sincerely,

EDWARD P. MADAUS,
Executive Director.

ACCION USA,
Boston, MA, July 8, 2002.

Hon. JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: My name is Erika Eurkus, and as a member of your Advisory Committee on Child Care and Small Business, I am writing to voice my support of expanding the SBA 504 loan program to include nonprofit child care centers.

I am the greater Boston program director for ACCION USA, a nonprofit ''micro'' lender whose mission is to make access to credit a permanent resource to low- and moderate-income small business owners in the United States—helping to narrow the income gap and provide economic opportunity to small business owners throughout the country. Many of the struggling entrepreneurs we serve are the owners of small, family-based day care centers.

At ACCION, I regularly come into contact with women and men whose dream is to operate a successful child care center—to provide a service to the community while making a better life from something they love to do. Often, what keeps these hardworking entrepreneurs from fully realizing that dream is a lack of working capital to begin and grow their businesses. Microlenders like ACCION are the only place they can turn for the crucial capital they need for their businesses. Mauro Leija, an ACCION client in San Antonio, Texas, has tried—and failed—to secure capital from commercial banks. ''The loan officer at the bank said, 'Be realistic—you'll never get a loan. You have no college diploma, no capital, no history with any bank,''' Mauro remembers. This lack of economic opportunity is too often the reality for countless child care providers—most of whom earn an average of $3 per hour for their services.

With increased access to capital through the expansion of the SBA 504 loan program, small, nonprofit day care centers can continue to provide their valuable services to the community—and build a better life for their own families at the same time. Suzanne Morris of Springfield, Massachusetts, a longtime ACCION USA borrower, already illustrates the potential successes that an expanded SBA 504—and an opportunity for capital—will bring to day care owners across the country. After years of hard work and several small loans from ACCION, Suzanne has moved her day care out of the home and has expanded her staff to include seven members of the community. The business supports her family of four. She also gives back by training other local home-based day care providers in Federal nutrition guidelines.

It is my hope that we can all witness more successes like those of Suzanne by opening the door to funding for small day care providers. Please include nonprofit child care centers in the scope of SBA 504.

Sincerely,

ERIKA EURKUS,
Greater Boston Program Director.

NEIGHBORHOOD BUSINESS BUILDERS,
Boston, MA, July 10, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: I am writing on behalf of Neighborhood Business Builders and the Jewish Vocational Service of Boston in support of legislation to expand availability of SBA 504 loans to non-profit child care centers.

I am currently the Director of Loan Funds at Neighborhood Business Builders, which is an economic development program and US SBA Intermediary Microlender. I have been lending and consulting to small businesses for the past year after fifteen years in the private sector as founder of three different companies in Boston and Los Angeles. I have an MPA from the Kennedy School at Harvard University.

I am on Senator Kerry's Child Care and Small Business Advisory Committee, and am Co-chair of the Sub Committee on Family Child Care.

I support legislative change to the 504 loan program because our committee has uncovered a need for government support of nonprofit child care centers. The basic reason for this is that, while we recognize a demand for child care in every part of the country, we do not consider that the market fails to profitably supply child care in every part of the country.

For-profit entities are able to access the capital they need by: (1) Demonstrating demand for the service provided and (2) Demonstrating ability to service market rate debt with acceptable risk. Non-profit centers emerge when: (1) Demonstrated demand for the service is evident, but (2) The market will not support the true cost of the service provided. These non-profit centers are unable to access traditional forms of capital because they cannot demonstrate an ability to service debt at an acceptable risk.

The SBA 504 loan program would help mitigate the risk to lenders who will then be able to provide the necessary capital for the service that we know is in demand. The tax status of a child care center should be irrelevant, since the 501(C)3 status is only granted

when there is evidence of a public good being provided.

Sincerely,

ERIC KORSH,
Director of Loan Funds, Neighborhood Business Builders.

SOUTH EASTERN ECONOMIC DEVELOPMENT CORPORATION,
Taunton, MA, July 10, 2002.

Chairman JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

Re non profit child care center eligibility under the SBA 504 program.

DEAR SENATOR KERRY: As a member of the Advisory Committee on Child Care and Small Business as well as Vice President at South Eastern Economic Development (SEED) Corporation, I am writing in support of the idea of expanding the SBA 504 program to allow for non profit child care centers to be eligible for financing under the program. SEED Corporation is a Certified Development Company certified and accredited to administer the SBA 504 program throughout southeastern Massachusetts. Over the past 2 years, SEED has been the number one SBA 504 lender in the state. SEED is also an approved SBA Microenterprise Intermediary and we have enjoyed and made use of the ability to provide micro loans to non-profit child care businesses since the microenterprise intermediary legislation made the special provision for non profit child care providers to be eligible for SBA micro loan funds. My primary responsibilities at SEED include origination, underwriting and closing SBA 504 loans as well as the oversight and development of SEED's micro loan and business assistance activities.

Over the past five years, SEED has assisted over 10 FOR-PROFIT child care businesses to obtain SBA 504 financing for their start-up or expansion projects. However, we have also had to turn away an equal number of non-profit child care centers that were seeking similar assistance due to the fact that non profit entities are not eligible under the SBA 504 program.

As we have learned from discussions and analysis with the Advisory Committee on Child Care and Small Business, access to long term, fixed market or below-market rate financing is essential to any child care center. The slim margins that characterize this industry limit any child care center's ability to grow. The SBA 504 program offers the type of fixed rate financing that not only assists the business to keep its occupancy costs under control but also serves to stabilize its operations over the long term. The program also provides an incentive to a bank to provide fixed asset financing to a business that might not otherwise be able to afford a conventional commercial mortgage. The non-profit child care centers provide the same quality of care as the for-profit centers. Preventing non-profit child care centers from making use of the SBA 504 program when their for-profit competitors are able to results in discrimination against the children they serve; and, in general, the majority of child care centers operating in our state's neediest areas are non-profit.

For these reasons, I would like to support your efforts to expand the SBA 504 program enabling non-profit child care centers to be eligible for fixed asset financing under the 504 program. Thank you for your efforts.

Sincerely,

HEATHER DANTON,
Vice President.

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES, OFFICE OF CHILD CARE SERVICES,
Boston, MA, July 11, 2002.

Chairman JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

DEAR CHAIRMAN KERRY: The Massachusetts Office of Child Care Services (OCCS) fully supports expansion of the SBA 504 loan program to include non-profit child care programs. OCCS is the state's licensing agency responsible for setting and enforcing strong health, safety and education standards for child care programs throughout the Commonwealth. OCCS is also the lead state agency responsible for the administration and purchase of all human services child care subsidies across the state. As a result, this agency is greatly invested in the availability of these child care programs and in increasing the capacity of child care services to benefit more families in the Commonwealth.

Currently there are approximately 17,000 licensed child care facilities in the Commonwealth which can provide services to over 200,000 children. Many of these facilities are non-profit programs that serve low-income families that are receiving child care subsidies to help them become or remain employed, and families that are or were receiving TANF. The availability and accessibility of child care is one of the main reasons that families can continue to successfully transition from welfare to work. There are currently approximately 18,000 children on the waiting list for a child care subsidy. The reauthorization of TANF may further increase the number of families seeking subsidized child care and Massachusetts must be ready to provide quality care. Accordingly, current and future non-profit programs will greatly benefit from the expansion of the SBA 504 loan program, as will the families that they serve.

OCCS is a member of the Advisory Committee on Child Care and Small Business and fully supports the Committee's mission of uniting the small business and child care communities to help providers maximize their income while providing quality child care. Expansion of the SBA 504 loan program will undoubtedly help expand the availability and accessibility of quality child care. Thank you for your support of this important legislation. If I can be of further assistance please do not hesitate to contact me.

Sincerely,

ARDITH WIEWORKA,
Commissioner.

WESTERN MASSACHUSETTS ENTERPRISE FUND, INC.,
Greenfield, MA, July 12, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Office Building, Washington, DC.

DEAR SENATOR KERRY: I am writing in strong support of the legislation to expand the use of the SBA 504 program to include the financing of non-profit childcare centers.

As a member of Senator Kerry's Childcare Advisory Committee and the Executive Director of the Western Massachusetts Enterprise Fund (which makes loans to non-profits), I have seen a clear need for both more flexible and lower cost financing.

The SBA 504 program meets both those needs. By providing up to 40 percent financing, the SBA 504 program can help childcare centers more easily leverage bank financing. Additionally, the program offers highly competitive interest rates.

Finally, allowing the SBA to make loans to non-profit childcare centers is not new to the agency. The SBA is already making working capital loans to non-profit childcare centers through its Microenterprise Loan Fund Program.

If you have any questions, please to not hesitate to contact me.

Sincerely,

CHRISTOPHER SIKES,
Executive Director.

By Mr. SANTORUM (for himself, Mrs. LINCOLN, Mr. JEFFORDS, Mr. KYL, Mr. COLEMAN, and Mrs. CLINTON):

S. 823. A bill to amend title XVIII of the Social Security Act to provide for the expeditious coverage of new medical technology under the Medicare program, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join today with my colleague, Senator BLANCHE LINCOLN, as well as Senators JEFFORDS, KYL, COLEMAN and CLINTON, in introducing the Medicare Innovation Responsiveness Act of 2003.

Given all that is going on in the world today, it is sometimes difficult to focus on issues related to Medicare coverage, coding and payment procedures. But we must, because every day there are seniors and people with disabilities in need of lifesaving and life-enhancing medical treatments and technologies.

And every day, there are creative people in Pennsylvania, Arkansas, and all across our great country developing new ways to prevent and treat illness and save lives. Medicare patients should not be denied access to these new procedures and technologies because the Medicare program is slow to respond to innovations in medical care and the changing needs of patients.

Congress passed legislation with strong bipartisan support in 1999 and in 2000 to try to address these problems. Unfortunately, however, Medicare has failed to deliver on key commitments in the legislation and these barriers persist.

That is why we are here today—to introduce legislation that will finally make timely access to lifesaving advanced medical tests and treatments for Medicare patients a reality. Our bill builds on constructive approaches the Centers for Medicare and Medicaid Services, CMS, has taken recently to help Medicare keep up with advancements in treating patients.

For example, CMS recently took proactive, unprecedented steps to address one of the newest innovations in minimally invasive cardiology that will soon be available for patients: drug-eluting stents. These tiny medal scaffolds, long-used to reopen blocked heart arteries, can be more effective now that researchers have combined them with time-released drugs to prevent the growth of unwanted cells. The Agency established new hospital inpatient codes and reimbursements for the new stints because it recognized that the technology will quickly become the standard of care when approved by

FDA in the coming weeks. The Agency understood the potential the stents hold to transform patient care and health care delivery—and acted in a timely fashion.

This forward-looking approach should be the rule, not the exception, in dealing with new treatment breakthroughs. And that is what our legislation today seeks to achieve.

At an event where Senator LINCOLN and I spoke to underscore the need for this legislation, we were pleased to be joined by medical professionals from our respective states, people who took time out of their busy schedules to come to Washington, DC and help us explain the importance of some of the provisions in the bill we are introducing today.

For example, three years after a mandate from Congress, Medicare has yet to provide special transitional payments for any new medical device used in the inpatient setting. As a result, Medicare will continue to take anywhere from 15 months to five years to integrate a new medical technology into the inpatient setting—and that is after it has already been approved as safe and effective by the FDA. Dr. Mark Wholey from Pittsburgh is involved in research on carotid stenting, and he commented today on the promise of this new treatment option and the importance of reducing barriers to Medicare patient access for new and innovative technologies.

In another area of coverage policy, Medicare discourages development of breakthrough devices like heart assist devices because it does not cover the routine costs of clinical trials for many innovative technologies. Dr. Walter Pae, Professor of Surgery at Penn State University, also came to Washington today to share some details of the pioneering work he is doing at Hershey Medical Center and to reinforce the importance of patient access to these promising clinical trials.

These reforms are reasonable and bipartisan. Most importantly, they are critical to patients in need of new and breakthrough technologies. I look forward to working with Senator LINCOLN and my colleagues on the Finance Committee in moving these important reforms in Committee and the Senate this year.

By Mr. HARKIN (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, and Mrs. BOXER):

S. 825. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code 1986; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, in the early 1990s, a large number of U.S. companies began a process of switching their defined benefit pension plans to cash balance plans. Many of the employees whose pension plans were to be altered drastically weren't told and didn't notice that they were essentially going to be working for years without earning any more benefits. Their not knowing was viewed as a key benefit by management. And the retirees were furious.

As Keith Williams with Watson Wyatt Worldwide and Amy Viener with William Mercer, two firms that put together these plans in 1998 said at an Actuaries conference:

> Mr. Williams: I've been involved in cash balance plans five or six years down the road and what I have found is that while employees understand it, it is not until they are actually ready to retire that they understand how little they are actually getting.
>
> Ms. Viener: Right, but they're happy while they're employed.

One of the most abusive practices in cash balance conversions is known as ''wear away.'' Older workers see nothing added to their pensions as the value of the pensions is frozen, often for many years, until it reaches the lower value of the new pension plan. At the same time younger workers are getting their pensions increased. In my view, this is clearly age discrimination and bad pension policy. In 1999, I introduced a bill to make it illegal for corporations wear away the benefits of older workers during conversions to cash balance plans. I offered my bill as an amendment. Forty-eight Senators, including 3 Republicans, voted to waive the budget point of order so we could consider this amendment. We did not have enough votes then, but I believe the tide is turning.

After that vote, more and more stories came out about how many workers were losing their pensions. In September of 1999, the Secretary of the Treasury put a moratorium on conversions from defined benefit plans to cash balance plans. That moratorium has been in effect now for over three years. In April of 2000, I offered a sense-of-the-Senate resolution to stop this practice, and it passed the Senate unanimously.

But last December, the Treasury decided to end that moratorium. The Department proposed a regulation that will allow hundreds of companies, many employing thousands of workers each to go forward with conversions that will allow for the wear-away of the current benefits of people across the country. This plan is breathtaking in its audacity. In a time when people have lost their life savings to market downturns and corporate duplicity, they are looking at changing the rules so that employers can once again bolster their bottom line by shifting funds from the pensions they promised their workers. I will not stand by and let it happen.

There are over 800 age discrimination complaints currently pending before the EEOC based on cash balance conversions. How many more will there be if we again start allowing companies to make these abusive conversions?

I want to make it very clear: I am not opposed to all cash balance plans. Some cash balance plans can be very good. What I oppose is the unilateral decision of a company being able to change their plans and stop contributing to older employees' pensions while benefits are given to newer employees.

That is what this issue is all about. It is fairness. It is equity. I know discussion of pension law can become very convoluted. But in essence, what some of these companies have been doing to these workers is nothing less than sheer thievery. They are able to save millions, in some cases hundreds of millions of dollars, by converting their plans, robbing workers who have been loyal and hard working, robbing them of their rightful claims on future benefits, It is not right. It is not fair.

There is one thing that has distinguished the American workplace from others around the world. We have valued loyalty. At least we used to. That is one of the reasons pension plans exist—the longer you work somewhere, the more you earn in your pension program. Obviously, the longer you work someplace, the better you do your job, the more you learn about it, the more productive you are. We should value that loyalty.

If companies are able to wear away the benefits of the longest serving workers, what kind of a signal does that send to the workers? It tells workers they are fools if they are loyal because if you put in 20 to 25 years, the boss can just change the rules of the game, and break their promise. It tells younger workers that it would be crazy to work for a company for a long time, that it's best to hedge your bets and move on as soon as it is convenient.

This destroys the kind of work ethic we have come to value and that we know built this country. But some of these cash balance conversions counter all of that. Her is an analogy. Imagine I hire someone for five years with a promise of a $50,000 bonus at the end of five years of service. At the end of three years, however, I renege on the $50,000 bonus. But the employee has three years invested. Had they known that the deal was going to be off, perhaps they would not have gone to work for me. They could have gone to work someplace else for a total higher compensation package. Is that the way we want to treat workers in this country, where the employer has all the cards and employees have none, and employers can make whatever deal they want, but can change the rules at any time?

That is why I am introducing this legislation. It is simple. It says that you have to give older, longer serving employees a choice, at retirement, when their pension plan is converted to a cash balance plan to get the benefits earned in the old plan instead. It also says that employers must start counting the new cash balance benefits where the old defined benefit plan left off, instead of starting the cash balance

plan at a lower level than an employee had already earned.

In the March 3, 2002 issue of Fortune magazine, Janice Revell said of the possible impending flood of cash balances conversions: ''Brace yourself for a very un-fairy-tale ending to this tory. Millions of American workers are sure to see a large slice of their retirement income go up in smoke. It may not happen right away, but the groundwork is being laid right now.''

I urge my colleagues in the Senate to join me in cosponsoring this measure, so that we can stop the flood before it starts.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 107—EXPRESSING THE SENSE OF THE SENATE TO DESIGNATE THE MONTH OF NOVEMBER 2003 AS ''NATIONAL MILITARY FAMILY MONTH''

Mr. INOUYE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 107

Whereas military families, through their sacrifices and their dedication to our Nation and its values, represent the bedrock upon which our Nation was founded and upon which our Nation continues to rely in these perilous and challenging times: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the month of November 2003 should be designated as ''National Military Family Month''; and

(2) to request that the President—

(A) designate the month of November 2003 as ''National Military Family Month''; and

(B) issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. INOUYE. Mr. President, today I rise to honor all our military families by introducing a Resolution to designate November 2003, as National Military Family Month. As we all know, memories fade and the hardships experienced by our military families are easily forgotten unless they touch our own immediate family.

Today, we have our men and women deployed all over the world, engaged in this war on terrorism. These far-ranging military deployments are extremely difficult on the families who bear this heavy burden.

To honor these families, the Armed Services YMCA has sponsored Military Family Week in late November since 1996. However, due to frequent ''short week'' conflicts around the Thanksgiving holidays, the designated week has not always afforded enough time to schedule observance on and near our military bases.

I believe a month long observation will allow greater opportunity to plan events. Moreover, it will provide a greater opportunity to stimulate media support.

A Concurrent Resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to our military families.

I request unanimous consent that the full text of my resolution be printed in the CONGRESSIONAL RECORD.

SENATE RESOLUTION 108—DESIGNATING THE WEEK OF APRIL 21 THROUGH APRIL 27 2003, AS ''NATIONAL COWBOY POETRY WEEK''

Mr. BURNS (for himself, Mr. BAUCUS, Mr. BROWNBACK, Mr. HATCH, and Mr. REID) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 108

Whereas throughout American history, cowboy poets have played a large part in framing the landscape of the American West through written and oral poetry;

Whereas the endurance of these tales and poems demonstrates that cowboy poetry is still a living art;

Whereas recognizing the contributions of these poets dates as far back as cowboys themselves; and

Whereas it is necessary to recognize the importance of cowboy poetry for future generations: Now therefore be it

Resolved, That the Senate—

(1) designates that week of April 21 through April 27, 2003, as ''National Cowboy Poetry Week''; and

(2) requests the President to issue a proclamation calling upon the people of the United States to celebrate the week with the appropriate ceremonies, activities, and programs.

Mr. BURNS. Mr. President, I would like to submit a resolution for consideration by the Senate marking the last week in April as ''Cowboy Poetry Week.'' Many think cowboys are a thing of the past, but I can tell you otherwise. In many western States like Montana, cowboys gather around a campfire and swap stories just as frequently as they did one hundred years ago. This oral tradition is now captured in written form as well, and several websites are dedicated solely to preserving and disseminating cowboy poetry and its history. My resolution will recognize the contribution of cowboy poetry to our history of the West, but also to mark it as a thriving tradition that continues even today. I thank my colleagues Senators BAUCUS, BROWNBACK, HATCH, and REID for their support on this issue. The life of cowboys should not be relegated to small weekly radio shows or features done on public television; it is important to understand that cowboys live and breathe a unique culture which few may be exposed to. I would encourage all my colleagues to take a walk in their boots one day, and read a little cowboy poetry.

SENATE RESOLUTION 109—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO POLIO

Mr. FEINGOLD (for himself and Mr. DODD) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 109

Whereas polio has caused millions of casualties through history, paralyzing millions and killing untold numbers of others;

Whereas polio remains a public health threat in today's world, despite being easily preventable by vaccination;

Whereas polio is now limited to 10 countries, with the distinct possibility that it can be once and forever extinguished as an affliction on mankind by ensuring the vaccination of all children in these countries under the age of 5;

Whereas a Global Polio Eradication Initiative exists that seeks to once and forever end polio as an illness, which includes efforts underway by the Centers for Disease Control and Prevention; and

Whereas the United States has the capacity to act to speed the eradication of polio by assisting in the targeting of its few remaining reservoirs: Now, therefore, be it

Resolved, That the Senate—

(1) expresses serious concern about the continuing menace posed by polio;

(2) implores the United Nations and its component agencies, the private sector, private voluntary organizations and non-governmental organizations, concerned States, and international financial institutions to act with haste and manifold dedication to eradicate polio as soon as possible; and

(3) calls upon the executive branch to provide the necessary human and material resources to end the scourge of polio once and for all, including closely monitoring laboratory stocks of the polio virus.

Mr. FEINGOLD. Mr. President, I rise to submit a resolution supporting global efforts to eradicate the scourge of polio from the face of the earth.

It was not so long ago that American parents were afraid to send their children to public swimming pools in the summer for fear that they would contact this deadly disease. More than 57,000 cases were reported in the United States in 1952. President Franklin Roosevelt, himself disabled by polio, established the March of Dimes in 1938 to find a cure for the disease. Sixteen years later, mass vaccination began, using a serum developed by Dr. Jonas Salk. Infections declined nearly 90 percent within three years. Routine administration of the Salk vaccine, and the subsequent oral vaccine developed by Dr. Albert Sabin, soon relegated polio to the history books in the United States and many other countries. The disease continued to take its toll, however, in those parts of the world where universal vaccination was beyond people's means.

In 1988, the World Health Assembly set a goal of eradicating polio worldwide by the year 2000. In that year there were an estimated 350,000 polio cases in 125 countries. The World Health Organization, the U.S. Centers for Disease Control and Prevention, UNICEF, and Rotary International spearheaded a global campaign to eradicate polio, as smallpox had been eradicated in 1979. As a result of this campaign, the Western Hemisphere was certified polio free in 1994. The Western Pacific—including the world's largest country, China—followed suit in 2000.